

F O R M S

OF

PRACTICAL PROCEEDINGS,

IN THE

COURTS OF KING'S BENCH,

COMMON PLEAS,

AND

EXCHEQUER OF PLEAS.

CORRECTED, AND CONSIDERABLY ENLARGED:
WITH REFERENCES TO THE NINTH EDITION OF THE PRACTICE;
TO WHICH THEY ARE INTENDED AS AN *APPENDIX*.

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P R E F A C E.

THE following collection was originally made by the Author, with the assistance of his friend and pupil, Mr. *Seth Thompson* : and intended as an *Appendix* to the *Practice*, which was then confined to the court of King's Bench. It was first published, soon after the *second* edition of the *Practice*, in *November* 1799 : And in the *second* edition, which was called for in *September* 1804, many considerable alterations and additions were made ; and two new chapters inserted, containing the forms in *replevin*, and *ejectment*. In the *third* edition, which was published in *March* 1809, many new forms were added, not only of proceedings in the King's Bench, but also in the Common Pleas and Exchequer, and in *inferior* courts.

In the *fourth* edition, which appeared in *November* 1814, some alterations were made in the arrangement of the work, so as to make it correspond with the *fifth* edition of the *Practice*. In particular, the proceedings by *original writ* were placed before those by *bill* ; and the whole of the proceedings against *prisoners* were brought together, in one chapter : In that edition also, the judgments for the plaintiff by *nil dicit*, *non sum informatus*, and *confession*, and on *demurrer* and *nul tiel record*, and for the defendant, on a *non pros*, &c. which before had been inserted in one chapter, with the judgments after *verdict*, were distributed, and placed in the different chapters to which they related. In the preceding editions, the Forms had been chiefly confined to the court of King's Bench ; but the principal work having been extended, so as to incorporate the whole of the *Practice* of the Court of Common Pleas, it was thought right, in the *fourth* edition, to include all the forms in that court, as well as in the King's Bench ; and in order to make the work more extensively useful, many forms were added, in the court of Exchequer : And, in the chapter on *Arbitrations*, forms were

given of rules of court, and orders of ~~reference~~ and of awards thereon, as well as on orders of *Nisi Prius*, and bonds of arbitration.

In the *fifth* edition, which was published in *June* 1819, considerable alterations and additions were made, which are particularly noticed in the preface to that edition: And in the *last* edition, which was published in *May* 1824, some new forms were added, particularly of *affidavits* for the admission of *Attornies*, as settled by the judges of the court of King's Bench; and of *affidavits* to hold to bail, the general arrangement of which was materially altered, in the *tenth* chapter; and, in the *twentieth* chapter, there were some new forms of proceedings in *ejectment*, on the statute of 1 Geo. IV. c. 87. and the rules of court respecting the form of the consent rule^a: But that which chiefly distinguished the *last* edition from the former ones was, that references were made throughout, in the margin, under the titles, to the pages in the *eighth* edition of the *Practice*, where the *Appendix* was referred to. These references were intended to connect the forms with the body of the work; and to point out to the practitioner, on what occasions, and for what purposes, they were used, the decisions of the courts thereon, and the manner of applying them.

In the *present* edition, no pains have been spared, to render the work more extensively useful to the profession: The whole has been carefully revised; and such corrections made, as appeared to be necessary, or were proper for adapting the forms to the present state of the courts, and their officers. The general arrangement of the work is pretty much the same in this edition, as in the last; but some alterations have been made, so as to make it correspond with the *ninth* edition of the *Practice*, to which it is intended as an *Appendix*; and, with that view, the proceedings in *ejectment* on a vacant possession, against the casual ejector before appearance, and by or against the real tenant or landlord, after appearance and before trial, which in the last edition constituted the *twentieth* chapter, are in the present transferred to the *forty sixth*, which treats of the proceedings in general in the action of *ejectment*; and the *thirty fifth* and *thirty sixth* chapters of the last edition have been divided into *three* chapters, being the *thirty fourth*, *thirty fifth*, and *thirty sixth* of the present.

^a R. M. 1 Geo. IV. K. B. R. H. 1 & 2 Geo. IV. C. P. and R. E. 2 Geo. IV. Excheq.

The collection now submitted to the profession consists altogether of nearly *two thousand* forms, of which upwards of *three hundred* have been added in the present edition, forming more than a *tenth* part of the whole work. These additional forms will be found to consist of *Writs* and *Returns*, *Pleas*, *Entries*, *Affidavits*, *Rules*, and *Notices*, &c. ; and such of them as were not prepared by the Author, in the course of his professional practice, have been carefully settled. The *nineteenth* chapter has been considerably enlarged, by adding to the *Notices of Motion*, the forms of *Affidavits* and *Rules*, &c. in general ; and, in the following chapter, there are similar forms, on motions for *setting aside* and *staying* proceedings. There are also some additional forms of proceedings, on the *compulsive* clause in the *Lords' act*, and in *ejectment* by landlord against tenant, on the statute 1 Geo. IV. c. 87. as well as some new forms of rules, &c. on the late acts of parliament respecting *Bankrupts*^a, *Juries*^b, *Hundredors*^c, and *Arrests upon mesne process*^d, &c. with which the Author has been favoured by Mr. Secondary Griffith, and Mr. Wood of the Rule Office ; to whom he is also obliged for some useful information and assistance, in correcting the other additional rules and affidavits.

In making this collection, as the subject did not admit of novelty, the greatest attention has been paid to selection and arrangement. Where the forms are materially different, the whole of them are inserted ; but where they only differ in some particulars, they have been altered, so as to adapt them to the different courts. To avoid unnecessary repetition, references are occasionally made to other precedents of the same nature ; and for preventing confusion, by the indiscriminate use of an “&c.” it was, in the earlier editions, included in a *parenthesis*, where it stood for something intended to be inserted ; but as there was frequently a difficulty in finding what was referred to, in the hurry of business, the *page* is inserted, where it is to be found in the present edition, after the “&c.” except in a few instances, where the words to be introduced are quite obvious. The directions for the use of the forms are in general printed in *italics*, so as to distinguish them from the forms themselves : And as they are referred

^a 6 Geo. IV. c. 16.

^b 6 Geo. IV. c. 50.

^c 7 & 8 Geo. IV. c. 31.

^d 7 & 8 Geo. IV. c. 71.

to throughout, in the *ninth* edition of the *Practice*, to which they are intended as an *Appendix*, so references are made, in the present edition, to the corresponding pages of the *Practice*, where the object and nature of the forms, with the manner of applying them, are treated of and explained.

As the *Index* was not originally framed for precedents in different courts, a new one was made to the *fourth* edition, in a more analytical form, wherein the titles were arranged under the most obvious heads, distinguishing between those in the different courts : and, in the *fifth* edition, the proceedings in the court of *Exchequer* were brought together, and fully indexed, under the title “*EXCHEQUER*,” on the *revenue*, as well as on the *plea* side. In the present edition, the *Index* has been carefully revised, altered, and re-paged, in order to make it correspond with the forms as they now stand. To facilitate research, the same title is sometimes indexed under different heads ; but where, by reason of the multiplicity of titles, this would have occasioned too great prolixity, reference is made from one title to another : And, in consequence of the great number of additional forms in the present edition, which are all *indexed*, it has been found necessary to make a new arrangement of some of the titles, particularly of *Affidavits* and *Rules* : Some new titles have also been added, and others considerably altered and enlarged.

The names of *serjeants* and *counsel*, affixed by the Author to the *rules* which are moved for in court, and other matters which require signature, such as pleas in *abatement*, *demurrers* to pleadings and evidence, assignments of *error*, &c. and proceedings in *replevin* and *ejectment*, are those of gentlemen who have been his pupils ; most of whom are now practising either in this country, or in *Ireland*, *America*, or the *East* or *West Indies* : And he is proud to say, that one of them * fills the highest judicial situation in this country ; and of the rest, it is with great satisfaction he observes, that as some of them have already risen, so others are rising fast, to eminence in their profession.

Temple,
Nov. 1st, 1828.

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ERRATA ET CORRIGENDA.

- Page 36. § 31. *in marg. for 'statutes' read 'statute.'*
 99. l. 26. *for 'last,' read 'rule of allowance.'*
 284. l. 29. *for 'Chapter 30,' read 'Chapter 50.'*
 292. § 14. *in marg. for 'judge's order for the above rule,' read 'judge's order to examine witnesses.'*
 313. *head line, for 'POSTEAS,' read 'PLEAS PUIS DARREIN CONTINUANCE.'*

INTRODUCTION.

IN conducting a suit at law, there are two things to be principally attended to by the practitioner; first, the *res acta*, or thing done, or intended to be done, in the progress of the cause; and secondly, the *modus agendi*, or manner of doing it: And with a view to the latter object, it will be found that an adherence to certain established forms is necessary. These, which are denominated *practical* forms, chiefly consist of writs and returns, entries, rules of court, petitions, summonses and orders, affidavits, notices, and demands.

Writs are *original* or *judicial*. *Original* writs issue out of Chancery, returnable in the King's Bench or Common Pleas; and are calculated for the *commencement* or *removal* of actions. Original writs for the *commencement* of actions, in the superior courts, are the *præcipe quòd reddat*, in account, annuity, debt, and detinue; the *præcipe quòd teneat*, in covenant; and the *pone*, or *si te fecerit securum*, in *assumpsit*, case, trespass, and ejectment: In the county court, actions are sometimes commenced by original writ of *justicies* or *replevin*: And causes are removed from inferior courts, into the King's Bench or Common Pleas, *before* judgment, by original writ of *pone*, *recordari facias loquclam*, or *accedas ad curiam*; or *after* judgment, by writ of error, from courts of record, and by writ of false judgment, from such as are not of record. An original writ of *certiorari* is also sometimes used for the removal of causes from inferior courts of record, into Chancery; from whence they are sent by *mittimus*, to the King's Bench or Common Pleas.

Judicial writs issue out of the court in which the action is depending; and are of a *civil* or *criminal* nature: The former are either *mesne*, that is, such as are issued between the commencement and termination of the suit;

or *final*, which are issued after judgment, to obtain execution, or for other purposes *. *Mesne* process, commonly so called, is used for bringing the defendant into court, by summons, attachment, or *distringas*, or by *capias ad respondendum* and process of outlawry, in actions commenced by *original writ*, in the King's Bench or Common Pleas; by bill of *Middlesex*, *latitat*, or *alias* or *pluries capias*, in the King's Bench; by *capias quare clausum fregit*, in the Common Pleas; or by *venire facias ad respondendum*, *subpœna ad respondendum*, or *quo minus*, in the Exchequer. In actions at the suit of *attornies* and officers of the court, the defendant is brought in by attachment of privilege; and in actions against *peers*, and *members* of the House of Commons, by summons or attachment, and *distringas*.

Under the head of *mesne* process, may also be classed the writ of *inquiry*, for assessing damages on a judgment by default, or on demurrer, or *nul tiel* record, in actions of *assumpsit*, &c.; the process for convening the jury on a trial, commonly called the *jury* process, consisting of the *venire facias* and *distringas*, in the King's Bench and Exchequer, or *habeas corpora juratorum*, in the Common Pleas; the *subpœna ad testificandum*, for compelling the attendance of witnesses; and the *mittimus*, for sending the record for trial into a county palatine. There are also certain forms dependent upon *mesne* process, for bringing the defendant into court; such as the sheriff's *warrant* to summon or attach the defendant, or distrain his goods, on process by *original writ*, or to arrest him, on process against his person; the sheriff's *mandate* to the bailiff of a liberty, when the defendant resides within a peculiar jurisdiction; or the *writ* issued by the superior officer of a county palatine, directed to the sheriff: to which may be added the *bail bond*, taken by the sheriff upon an arrest, and the *assignment* of it to the plaintiff.

Final process is 1. by *feri facias*, against the goods and chattels of the defendant; 2. by *capias ad satisfaciendum*, against his person; 3. by *elegit*, against his goods, and a moiety of his lands; 4. by *levari facias*, against his goods, and the profits of his lands; 5. by *extent*, which is either against his body lands and goods, on an *extent*, in *chief* or in *aid*, or on a

* For the difference between *mesne* and *final* process, see the case of *Lewis v. Morland*, 2 Barn. & Ald. 56.

statute staple, or *recognizance* in nature of a *statute staple*; against his lands and goods, on a writ of *diem clausit extremum*, or *statute merchant*; or against his lands only, upon a judgment in *debt* against an heir, on the obligation of his ancestor: And to this head may be referred the writ of *scire facias*, for having execution on a *recognizance* or *judgment*. It should also be observed, that causes may be removed from inferior courts, by a *judicial* as well as an *original* writ of *certiorari*, or by *habeas corpus*; and remanded by *procedendo*. Of a *criminal* nature, is the writ of *attachment*, which issues for a contempt of the court.

Writs are in general obtained, as a matter of course, by applying for them, with a *præcipe*, or note of instructions, to the proper officer; and in describing the nature of the cause of action in bailable process, a clause of *ac etiam* is inserted in the bill of *Middlesex*, or *latitat*, &c. in the King's Bench, or *capias quare clausum fregit* in the Common Pleas, containing the true cause of action, in addition to the general complaint of trespass. The *direction* of writs, and the *teste* and *return* of them, are treated of in the *Practice*; and when returnable, the sheriff, or other officer to whom they are directed, may be called upon by *rule* to return them; and his *return* is either indorsed on the writ, or contained in a *schedule* annexed thereto, which commonly happens, when he returns an *inquisition* on a writ of inquiry, *elegit*, extent, or *capias utlagatum*, or the proceedings are returned from an inferior court. Writs remain in the custody of the sheriff, or other officer to whom they are directed, until a return is called for; and then they are returned and filed, with the proceedings which have been had under them, in the treasury of the court of King's Bench or Common Pleas, or office of Pleas in the Exchequer.

Entries are either of *record*, or *not* of record. The former, being a memorial of the proceedings and acts of the court, &c. are made on parchment rolls; which, after being docketed and carried in, are bound up, with vellum covers, in one or more parts or bundles for each term, and filed *numerically*; after which they are deposited in presses, or open stages, appropriated for that purpose, in the treasury of the court of King's Bench and Common Pleas, or office of Pleas in the Exchequer. These rolls, with the time allowed for bringing them in, and the mode of *docketing* and

fling them, are fully treated of in the *Practice*^a; where it will be seen, that they are denominated, according to the subject matter of them, the *warrant of attorney* roll; the *process* roll; the *recognizance* roll; the *imparlance* roll; the *plea* or *issue* roll; the *judgment* roll; the *scire facias* roll; and the roll of proceedings on writs of *error*, and *false judgment*: to which may be added the rolls of *deeds*, and *awards*, &c.

In the King's Bench, the course of the court was always to enter the *warrants of attorney* on a particular roll for that purpose, till the time of *Wright* chief justice, who altered the ancient course, and caused them to be entered on the top of the respective *plea* rolls to which they belong, as is practised at this day^b. In the Common Pleas, they are still entered by the clerk of the warrants, on distinct rolls, which are filed in the bundle of *common* rolls in that court.

The entries on the *process* roll are either of the proceedings on a writ of *error*, or motion to reverse an *oullawry*; or where a writ is sued out to avoid the statute of limitations. The former are made by the *filacer*, who acts as *exigenter* and clerk of the *oullawries*, in the King's Bench; the latter, as well as the process of *oullawry*, &c. in the Common Pleas, by the plaintiff's attorney, or clerk in court: And where a writ is sued out to avoid the statute, the entry is made of the term it is returnable. In the King's Bench, the bill of *Middlesex* or *latitat*, &c. is entered on the roll *in hæc verba*; after which the roll proceeds with an entry of the plaintiff's appearance, the sheriff's return of *non est inventus*, and continuances of the process from term to term, by *vicecomes non misit breve*, to the term of the declaration. In the Common Pleas or Exchequer, the roll merely contains a *recital* of the writ, with an entry of the plaintiff's appearance, and sheriff's return, &c.

The entries on the *recognizance* roll are made by the *filacers*, in actions by *original*, in the King's Bench or Common Pleas; and by the plaintiff's attorney, or clerk in court, in other cases: And in the King's Bench by *bill*, and also in the Exchequer, the recognizance of bail to the *action* is entered on the roll, after the bill or declaration, of the term of which it is entitled. This roll first states the bill or declaration; after which the appear-

^a 2 V. p. 728, &c.

^b 1 Salk. 88. R. E. 4 Jac. II. K. B.

ance of the defendant is entered, and then the recognizance. In actions by *original*, in the King's Bench or Common Pleas, the roll begins with a recital of the writ, upon which the defendant was brought into court; and in entering a recognizance of bail *in error*, there is a *memorandum* of its being brought into court, and recorded by the chief justice.

There is no *imparlance* roll in the King's Bench, or Exchequer; but in the Common Pleas, when an *original* is actually issued in the first instance, (which however is seldom the case,) or the proceedings are by *bill* filed against an attorney, or member of the House of Commons, if the defendant be entitled to an *imparlance*, it is entered on a roll, called the *imparlance* roll, which is made up of the term the writ is returnable, or bill filed; and contains an entry of the declaration or bill, and of the defendant's appearance thereto, with the prayer and grant of an *imparlance*.

The *plea* or *issue* roll is made up by the plaintiff's attorney or clerk in court, of the term issue is joined, in the King's Bench by *bill*, or in the Common Pleas or Exchequer; but in the King's Bench by *original*, it is made up of the term of the declaration; or it may be entitled of the term issue is joined, as in actions by *bill*: and it is either on an issue *in fact*, or *in law*. In actions by *bill*, in the King's Bench, this roll contains the following particulars: 1. the term of which it is made up; 2. the warrants of attorney, for the plaintiff and defendant; 3. a *memorandum*, stating that on the first or some subsequent day in that term, if the declaration was then delivered, or otherwise in a former term generally, the plaintiff came into court, and exhibited his bill against the defendant, and found pledges for the prosecution of it; 4. a copy of the bill itself, omitting the pledges; 5. the appearance of the defendant, in person, or by attorney or guardian; 6. the plea of the defendant, without an *imparlance*, if it be of the same term with the declaration; and if it be merely the general issue, a *similiter* thereto; or if special, the plea and replication, &c. as in the paper book: But if the plea be of a term subsequent to the declaration, it is preceded by a general entry of an *imparlance*, to the term of which it is pleaded, beginning thus, "And now at this day, that is to say, on — next after —, in this same term, until which day the defendant had leave to imparl to the

* See further as to the *imparlance* roll, Bac. Abr. tit. *Amendment*, D. 2. Gillb. C. P. 42, 3, 4. Boote's suit at law, 5 ed. p. 72, 91, &c. 1 Wils. 183.

said bill, and then to answer the same," &c. And, by the course of the King's Bench, continuances are never entered until the plea roll is made up, though the declaration was delivered several terms before *. The issue then concludes, if it be an issue in *fact* triable by the *country*, with the award of the *venire facias*, or *mittimus* to a county palatine; or if it be an issue in *fact* triable by the *record*, by giving a day to inspect or produce it.

In actions by *original*, in the King's Bench, the *plea* or *issue* roll begins with the term and warrants of attorney, as in actions by *bill*; and then proceeds with a copy of the declaration, without any *memorandum*; after which it states the appearance of the defendant, and the plea and replication, &c. if of the same term, without an imparlance; but if the plea be of a different term, it is usual to enter imparlances specially, from term to term, between the declaration and plea: But after plea pleaded, though the plaintiff has day to reply for several terms, yet no mention need be made on the roll, of any imparlance or continuance †.

In the Common Pleas, when an *original* writ is actually issued, or *bill* filed against an attorney, or member of the House of Commons, and the defendant impails to a subsequent term, the *plea* or *issue* roll begins with an *alias prout patet*, thus, "Elsewhere, as it appears in — term last past, in — roll, it is thus contained;" after which the *imparlance* roll is copied, and then the plea and replication, &c.: but if, as is more commonly the case, the action is commenced without suing out an original writ, the *plea* or *issue* roll merely contains a copy of the declaration and pleadings, without any imparlance or continuance: And should it become necessary to sue out an *original* writ, in consequence of a writ of error after judgment by default, (which however seldom happens, as the defendant's attorney commonly undertakes, on taxing costs, not to assign the want of it,) the *original* may be made returnable of the term the issue is made up, which will be sufficient to support the proceedings.

In the Exchequer, the *plea* or *issue* roll begins with the *placita*, or style of the court, of the term issue is joined; after which, if it be an issue of the same term, it merely contains a transcript of the pleadings, beginning each with a new line, without any *memorandum*, or imparlance; but if it be

* 1 Salk. 179. 2 Ld. Raym. 872. S. C. Cag. temp. Hardw. 322.

† 5 Co. 75. 2 Saund. 5 Ed. 1. (2.)

an issue of a different term, the bill or declaration is prefaced with a *memorandum*, stating the term in which it was exhibited; and there is a general entry of an imparlance before the plea: but there is no occasion for any imparlance or continuance, between the plea and replication.

On an issue in *law*, the *plea* or *issue* roll is made up as on an issue in *fact*, substituting the demurrer and joinder, for the plea or replication, &c.; and concludes with a continuance by *curia advisari vult*

The *judgment* roll, which will next be considered, is either on an issue in *fact* or in *law*; or upon the defendant's confessing the action, or letting judgment go by default; or on a *non pros*, *nolle prosequi*, *stet processus*, or judgment as in case of a nonsuit. On an issue in *fact* or in *law*, the *judgment* roll is merely a continuance of the proceedings, on the *plea* or *issue* roll; and if that roll has been already carried in, the subsequent proceedings must be entered thereon by the clerk of the treasury, in the King's Bench; or, whether it has been carried in or not, by the clerk of the judgments, who has the custody of the *postea*, in the Common Pleas. On an issue in *fact* triable by the *country*, if the cause be tried the same term issue is joined, or in the following vacation, the proceedings are continued, by an entry of the jury being respited, before the king or his justices, until the return of the *distringas*; at which day, the appearance of the prevailing party is recorded, and an entry made of the *postea*, which contains the verdict of the jury, whether general or special, nonsuit, or demurrer to evidence, &c. But if the cause be not tried the same term issue is joined, or in the following vacation, it is continued to the term in or after which the trial takes place, by *vicecomes non misit breve*. These continuances were formerly entered on separate rolls, in the Common Pleas†; but they are now entered on the *judgment* roll. After the *postea*, if final judgment be given the same term, it is immediately entered; but if it be not given till a subsequent term, the cause is continued to the term of giving it, by *curia advisari vult*. In a county *palatine*, an entry is made of the record being sent, with the *postea* indorsed upon it, by the justices before whom the cause was tried, on a day prefixed to the parties to be in court, to hear judgment.

* See further as to the *plea* roll, and mode of making up the issue, Bac. Abr. tit. *Amendment*, D. 3. Boote's suit at law, 5 ed. p. 113, &c.

† Gilb. C. P. 81, 2. and see Rast. Ent. tit. *Error*, p. 288. where there is a notable roll in 15 Edw. IV. on which the very number of each roll of continuance is entered at the foot of the judgment.

On an issue in *fact* triable by the *record*, the *judgment* roll proceeds, after the issue, with an entry of the appearance of the prevailing party, and the finding of the court, that there is or is not such a record as alleged in the pleadings, or that the party alleging has produced, or failed to produce it; upon which the judgment is given. On an issue in *law*, the appearance of both parties is usually recorded; and the judgment is founded on the determination of the court, that the declaration, or other pleading, is or is not sufficient: In either case, if the judgment be not entered the same term issue is joined, the cause is continued in the mean time, by *curia advisari vult*. On a verdict or nonsuit, the judgment is always *final*; but on an issue of *nil tiel record*, or upon demurrer, it is *final* or *interlocutory*, according to the nature of the action; and if only *interlocutory*, the same proceedings are had thereon, as on a judgment by default*.

When the defendant does not plead to the action, but confesses it, or lets judgment go by default, there is of course no *plea* or *issue* roll; but the record proceeds, after the defendant's appearance, with an entry of the confession or default, and the judgment of the court thereon: And, in the King's Bench, this entry is the same, whether the judgment be for want of a plea, or for not rejoining, sur-rebutting, or joining in demurrer, or for not returning the paper book; but in the Common Pleas, where the pleadings are supposed to be entered of record as they are pleaded, the *judgment* roll states the previous proceedings, and the particular default upon which the judgment is given. If the confession be after plea pleaded, it is called a *cognovit actionem, relicta verificatione*: and it sometimes happens, that after letting judgment go by default, the defendant confesses the amount of the damages, to save the expense of executing a writ of inquiry: In these cases, the confession is entered on the return of the *venire facias*, or award of inquiry. The judgment on a *cognovit actionem*, if accompanied with a confession of the amount of the damages, is always *final*: but by default, it is *final* or *interlocutory*, according to the nature of the action. In *debt*, the judgment by default is *final*: but in *covenant*, *assumpsit*, *case*, *replevin*, and *trespass*, it is only *interlocutory*; and the *judgment* roll in that case proceeds with the award of the writ of inquiry of da-

* See further, as to the mode of entering the continuances, after issue joined, Gilb. C. P. 79, &c. Boote's suit at law, 5 ed. p. 171, &c. 6 Mod. 4, 5. 1 Salk. 216. 2 Ld. Raym. 925, S. C. 2 Salk. 454. 2 Ld. Raym. 1043, S. C.

gages, and the sheriff's return thereto, or with the assessment of them, when assessed by the court, as on a bill of exchange or promissory note; after which final judgment is given. In the King's Bench by *bill*, or in the Common Pleas or Exchequer, judgments by default are entered on a roll of the term of which they are signed; but in the King's Bench by *original*, they are entered of the term of the declaration: In the Common Pleas, the entries are made by the clerk of the judgments, with whom the writ of inquiry is left for the purpose; and there is no necessity, in that court, for a subsequent continuance between the parties, after judgment by default, and writ of inquiry awarded *: but in the King's Bench, it is said to be otherwise.

On a *non pros*, the judgment is entered by the defendant's attorney or clerk in court, of the term in which it is signed: and after stating the previous proceedings, as on a *non pros* for not declaring, the writ,—for not replying, the declaration and plea,—or for not entering the issue, the whole of the pleadings,—the *judgment* roll contains an entry of the plaintiff's default, and the judgment of the court thereon. A *nolle prosequi* is either that the plaintiff will not further prosecute his action generally, or that he will not prosecute the same as to part of the cause of action, or one of several defendants; and it may be entered in any stage of the proceedings. The *stet processus*, or judgment as in case of a nonsuit, is entered at the foot of the *plea* or *issue* roll, by the clerk of the treasury in the King's Bench, or clerk of the judgments in the Common Pleas.

Incident to and dependent upon the proceedings which have been mentioned, there are others which are only entered occasionally, on the *plea* or *issue* and *judgment* roll. These are, 1. the *continuances*; which are either by *dies datus*, before declaration; by *imparlance*, after declaration, and before issue joined; by *vicecomes non misit breve*, after issue, and before verdict; and by *curia advisari vult*, after verdict or demurrer: 2. the *suggestions* of the parties; which are either of breaches, on the statute 8 & 9 W. III. c. 11. § 8.; of the death or promotion of the plaintiff or defendant; of the sheriff's being interested, &c.; for awarding the *venire facias* out of the common course; for judgment on the *Welsh* judicature act; or for costs on a court of conscience act, &c.: 3. the *relictâ verificatione*;

* 11 Co. 6. b. Yelv. 97. 1 Roll. Abr. 486.

where the defendant relinquishes his defence, after plea pleaded, and confesses the action: 4. the *unica taxatio*; where the taxation of damages is stayed, after judgment by default against one of several defendants, or on demurrer, until the issue joined between the plaintiff and the other defendants, or the demurrer, is determined: 5. the *remitter damna*; where damages are remitted by the plaintiff: The above entries are made *before* judgment: Those *after* judgment are, 6. the award of execution, by *feri facias*, *capias ad satisfaciendum*, or *elegit*, &c. and the sheriff's return thereto, to prevent the necessity of a *scire facias*, or to warrant a *testatum*, or *feri facias*, or *capias ad satisfaciendum*, for the residue of the debt or damages, after part has been levied on a former writ: 7. the *committitur*, or commitment of the defendant in execution: 8. the *satisfaction* of the debt, or damages, and costs: and lastly, the proceedings on error *coram nobis*, or on error from the King's Bench to the Exchequer chamber, or to the House of Lords directly, or after affirmance in the King's Bench, when the proceedings have been remitted.

The *judgment* roll contains the *body* of the record, so called in opposition to its *members* or outbranches*. These are, 1. the *original* writ; which is filed with the *custos brevium*, in the treasury of the King's Bench or Common Pleas: 2. the *bill* against *attornies* and officers of the court; which is filed with the clerk of the declarations in the King's Bench, or prothonotaries in the Common Pleas: 3. the *bill* against *members* of the House of Commons; which is filed with the clerk of the declarations in the King's Bench, or filacers in the Common Pleas: 4. the *bill* against *prisoners*, in custody of the marshal or sheriff, &c. which is filed with the clerk of the declarations in the King's Bench: 5. the *nisi prius* record, in the King's Bench or Common Pleas; which, after the *placita*, contains a transcript of the pleadings, and issues joined between the parties, ending with the *jurata* and *sciendum*, except at the sittings in the King's Bench for *London* or *Middlesex*, where there is no *sciendum*: 6. the *commission* in the Exchequer, for authorizing the trial of a cause at the assizes: 7. the *postea*; which, after being marked by the clerk of the common bails, is delivered, in the King's Bench, to the attorney for the prevailing party; but in the Common Pleas, is left with the clerk of the judgments: 8. the *bill of excep-*

* 1 Salk. 270.

tions; which may be either tacked to, or separate from the record. The above are not, properly speaking, *entries*; as they are not entered on the rolls of the courts.

In *scire facias*, the entry on the roll, in the King's Bench, begins with the term in which the writ is returnable; after which it alleges that the king sent to his sheriff of the county wherein the *scire facias* was brought, his writ close in these words, (setting out the writ *verbatim*.) It then states the plaintiff's appearance, and the sheriff's return, which is either *scire feci*, or *nihil habet*. In the latter case, an *alias scire facias* is awarded: And at the return of it, the plaintiff's appearance is again stated, with the sheriff's return of *nihil habet*; upon which, if the defendant make default, execution is awarded for the debt or damages, or sum acknowledged: But if the defendant or bail appear, on the return of the first or second *scire facias*, his appearance is entered, with a prayer of execution; after which the pleadings are copied, with or without an imparlance, as in other cases. When two writs issue, returnable in different terms, the first must be entered of the term wherein it is returnable; and an award of the second is sufficient, without setting it forth at large *. In the Common Pleas, the entry on the roll begins with a *recital* of the writ; after which it proceeds, as in the King's Bench, with the appearance of the plaintiff, and sheriff's return, &c. And in that court, if there be two writs of *scire facias*, returnable in different terms, there must be two rolls, one of the term the first writ was returnable, and the other of the term the second writ is returnable; on one of which rolls the first writ is entered, with the sheriff's return thereto, and an award of the second writ only; and the other roll, which begins with an *alias prout patet*, contains a copy of the former roll, with the addition of the return to the second writ, and the entry of the judgment of the court.

On a writ of error *coram nobis*, the proceedings are entered on the *same* roll as the original judgment †; but on a writ of error from an inferior court to the Common Pleas, or from the Common Pleas to the King's Bench, the entries are made on *different* rolls, in the court above, entitled of the term the writ of error is returnable; and begin with the writ of error and return, after which the proceedings in the inferior court, or Com-

* R. E. 5 Geo. II. *reg.* 3. a. K. B.

† Cro. Eliz. 155. 281. 1 Ld. Raym. 151. Carth. 369. S. C. Lil. Ent. 220. 232. 463. 4. 490.

mon Pleas, are entered, to the end of the final judgment. Then follows the judgment of *non pros*, for not assigning errors, or, if they are assigned, the assignment of them; and if it be of errors in *fact*, the plea and replication are next entered, with the award of the *venire facias*: or if it be of errors in *law*, there is an entry of the joinder, with a continuance by *curia advisari vult*; after which the roll proceeds with the finding of the jury, or determination of the court, and judgment of *affirmance* or *reversal*. On a writ of error from the King's Bench to the Exchequer chamber, or House of Lords, after the proceedings are remitted into the King's Bench, they are entered at the foot of the original roll in that court; and if a writ of error be first brought in the Exchequer chamber, and afterwards in the House of Lords, the proceedings in both are entered, after a *remittitur*, on the same roll.

Deeds and *awards*, &c. are entered in the bundle of *plea* rolls, in the King's Bench, and docketed under the head of *special memorandums*: but in the Common Pleas, they are entered by the clerk of the warrants, in the bundle of *pleas of land*.

Entries not of record are called *remembrances*; and are either entered on remembrance rolls, or in books of parchment or paper, kept by the different officers of the courts. Of this description are, 1. the books kept by the master of the King's Bench, or clerk of the warrants in the Common Pleas, wherein are entered, in alphabetical order, the names of the attornies who have been admitted, and have taken out their certificates; 2. the remembrance rolls, kept by the signer of the bills of *Middlesex*, or of the writs, in the King's Bench, in which are entered the *præcipes* of bills of *Middlesex*, or *latitats*, &c.: 3. the remembrance rolls and books kept by the *filacers*, in the King's Bench or Common Pleas, on which are entered the *præcipes* of writs, and *common* or *special* appearances by *original*: 4. the parchment books, kept by the clerk of the common bails in the King's Bench, wherein he enters alphabetically, by the defendant's surname, the common bails filed in *London*, *Middlesex*, and the *country*, separately, with the days when they were respectively filed: These were formerly entered on parchment rolls; and by a modern regulation, he is required to mark the bail-pieces numerically as they are received*: 5. the books kept at the judges' chambers, wherein are entered abstracts of bail-pieces, excep-

* R. E. 30 Geo. III, K. B. 3 Durnf. & East, 660.

tions to bail, and undertakings to pay costs on taxation, &c. : 6. the book kept by the clerk of the declarations, in the King's Bench office, wherein he makes entries alphabetically, by the plaintiff's surname, of the bills and declarations filed with him : 7. the general issue book, kept by the clerk of the judgments, in the King's Bench office ; and the book kept at the judge's chambers, wherein are entered general issues in *ejectment* : 8. the book kept by the clerk of the papers, in the King's Bench, wherein he enters special pleas filed with him, alphabetically, by the defendant's surname : 9. the prothonotaries' rolls, in which are entered *præcipes* taken at bar on common recoveries, the admission of *prochein amis* and guardians, and the appearances and recognizances of bail, on attachments of privilege, &c. : 10. the books kept by the prothonotaries, wherein are entered the declarations filed and delivered out, in the several causes passing through their office, with the subsequent pleadings between the parties, the money paid into and taken out of court, the records passed for trial, the entries of issues joined between the parties, interlocutory judgments, and final judgments thereon, writs of inquiry, and execution, &c. : 11. the books kept by the clerk of the rules in the King's Bench, and secondaries in the Common Pleas, wherein are entered all *common* and *special* rules : 12. the court books, kept by the clerk of the papers in the King's Bench, or prothonotaries in the Common Pleas, in which are entered the names of all causes on demurrers, special verdicts, and other matters which are to be argued in court, and of causes to be tried at bar, &c. : 13. the remembrance papers, of records passed by the clerks of *nisi prius* in the King's Bench ; and the cause books, kept at the chief justice's chambers, wherein causes are entered for trial, at the sittings in *London* or *Middlesex* : 14. the book kept by the clerk of the judgments, in the King's Bench, containing entries on the roll to save the statute of limitations, issues, interlocutory and final judgments, and writs of *scire facias* * : 15. the marshal's book, also kept by the clerk of the judgments, wherein are entered surrenders, and *committiturs* : 16. the book kept in the prothonotaries' office, for docketing judgments : 17. the *docket roll*, or *common docket*, of judgments in the Common Pleas : 18. the *docket* books, kept by the clerk of the dockets in the King's Bench, by the clerk of the essoins in the Common Pleas, and by the master of the office of Pleas in the Exchequer, containing an alphabetical entry or

* 5 Esp. Rep. 177. 2 New Rep. C. P. 474.

docket, by the defendants' names, of all judgments entered in their respective courts, pursuant to the statute 4 & 5 W. & M. c. 20. § 2.: and lastly, the *memorial* of the judgment, which is required to be registered, where the defendant has lands in *Middlesex* or *Yorkshire*, in order to charge them. In the Exchequer, besides the bundles of *rolls*, and files of *bills* and *writs*, which are *records*, there are books of bails, appearances, orders, and dockets, which are *not* of record.

Rules of court are common or special: *Common* rules are, 1. such as are given by the master in the King's Bench, and entered with the clerk of the rules, or are given by the clerk of the papers, or clerk of the errors. In the Common Pleas, all rules are given, or drawn up by the secondaries, except rules for judgment on writs of *scire facias*, which are given by the prothonotaries; rules to declare in *replevin*, and to bring in the body, which are given by the filacers; and rules for better bail in error, or to certify the record, which are given by the clerk of the errors: 2. such as are entered with the clerk of the rules in the King's Bench, or secondaries in the Common Pleas, on a *præcipe* or note of instructions made out by the attornies who apply for them, or on a judge's *fiat*, &c.; and are not founded on any motion in court, either real or supposed: 3. such as were anciently moved for by the attornies at side-bar, in the King's Bench, and are thence called *side-bar* rules. In the Common Pleas, they are supposed to be moved for by the secondaries at side-bar on the first day of term, and in the Treasury Chamber on other days, and are therefore called in that court, *side-bar* or *treasury* rules: 4. such as are drawn up by the clerk of the rules in the King's Bench, or secondaries in the Common Pleas, without being moved in court, on producing a motion paper signed by a counsel or serjeant.

All rules that are applied for to the court, are denominated *special* rules; and they are either *absolute* in the first instance, or only *nisi*, to shew cause. Of the former, some cannot be had without the consent of both parties; and the latter may be considered, as they are moved for on behalf of the *plaintiff* or *defendant*. Rules in general operate on the *proceedings*, by setting aside, staying, or amending them; or on the *parties* to the suit, by requiring something to be done by the party applying, or by the opposite party for his benefit, or by the sheriff, or officers of the court, &c. The application to the court for *special* rules, is made by *motion* or *petition*: the former is

sometimes preceded by a *notice*, and is usually founded on an *affidavit* of the circumstances. *Petitions* are also used for other purposes ; as to a judge at chambers, for *infants* to be admitted to sue by *prochein ami*, or defend by *guardian*, or for *paupers* to defend *in formâ pauperis* ; or to the master of the rolls, for an original writ to be issued on a writ of error, after judgment by default, or to amend an original, &c. : and *fiats* are granted thereon, for these several purposes.

The rules of the courts are not considered as *records*, but only *remembrances* of their proceedings * : and are filed, with the affidavits in support of them, in the office of the clerk of the rules in the King's Bench, or secondaries in the Common Pleas. In the Exchequer, all rules are given or drawn up by the master.

Summonses are granted, and *orders* made thereon, by the judges ; and answer to the rules of the court : the former being in nature of rules to shew cause, and the latter of rules absolute. In general, they are intended to regulate those less important matters, which are not altogether of course, but yet are not of sufficient moment to claim the attention of the court ; such as the allowance of further time to plead, &c. There are also certain forms depending on rules of court, or judge's orders ; such as *interrogatories* and *depositions* on the former, and *particulars* of the plaintiff's demand, or defendant's set off, on the latter.

Affidavits are made by the parties to the suit, or their attornies, &c. ; and are calculated to found, or give effect to some proceeding in the course of the cause, or more commonly to obtain, or shew cause against a rule of court, or judge's order ; though they are seldom used on applying for, or shewing cause against the latter. Of the former kind, are affidavits to hold to bail ; for filing common bail, or entering a common appearance ; of the truth of pleas in abatement ; and of increased costs, upon taxation, &c. Affidavits of the latter kind, or such as are used in court, may be considered as they relate to the proceedings in actions in general, or to particular actions or modes of proceeding, or actions by or against particular persons. In point of form, they may be considered with reference to their title, contents, and *jurat*. In general, they are sworn in court, or before a judge or baron in town, or commissioner for taking affidavits in the country ; or else, in the case of affidavits to hold to bail, before the officer who issues the

process, or his deputy : and they are filed, when used in court, with the clerk of the rules in the King's Bench, or secondaries in the Common Pleas ; or otherwise, with the judge or officer before whom they are used. Affidavits of the execution of articles of clerkship, and service under them, are filed with the chief clerk or his deputy, in the King's Bench, or clerk of the warrants, in the Common Pleas ; affidavits to hold to bail, with the officer who issues the process, or his deputy ; affidavits of the service of process, with the clerk of the common bails, or filacer ; affidavits of the truth of pleas in abatement, with the clerk of the papers, or prothonotaries ; and affidavits of increased costs, with the master or prothonotary who taxes them. When an affidavit has been read and filed, it becomes a record of the court, and cannot be taken off the file *.

Notices are of something done, or intended to be done, by the party giving them ; such as notices of bail put in, or of an intention to bring an action, or move the court, or proceed to trial, &c. : or of something expected to be done by the other party, as to appear, plead, &c. *Demands* are of something required to be given or done by the opposite party ; as of declaration, or plea, or *oyer* and copy of deeds, &c. *Notices* and *demands* pass between the parties, or their attorneys ; and are not filed or entered of record. There are also certain other acts of the parties, which should here be noticed ; such as the *warrant of attorney* to confess judgment, and the *defeazance* thereon, *undertakings* of indemnity to the sheriff, or to pay the costs due to an attorney on taxation, &c.

In addition to the above forms, which may be considered as relating to actions in general, there are others which are peculiar to particular actions and modes of proceeding, such as the actions of *replevin* and *ejectment*, and the proceedings in *scire facias*, *error*, and *false judgment* ; and others again, which relate to actions by or against particular persons, as *attornies* and *prisoners* : Of the latter kind are *certificates* of gaolers, and *schedules* on the Lord's act, &c. There are also some forms particularly applicable to the remedies, or means of obtaining redress, without suit, by the mere act or agreement of the parties ; as by *distress*, which proceeds from the act of the injured party only, or by *arbitration*, which is founded on the joint act or agreement of all the parties.

FORMS

OF

PRACTICAL PROCEEDINGS,

&c. &c.

CHAP. I.

NOTICES of ACTION, &c.

TO C. D. Esquire, one of his majesty's justices of the peace in and for the county of —.

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused me to be apprehended, and unlawfully committed to a certain common gaol or prison called —, in and for the same county, and to be there imprisoned, and kept and detained in prison there, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of — then next following; I do therefore, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex* (or writ of *latitat*, *capias ad respondendum*, or *quo minus*, &c.) to be sued out of his majesty's court of King's Bench (or Common Pleas, or Exchequer) at *Westminster*, against you, at my suit, for the said imprisonment, and shall proceed against you thereupon according to law. Dated this — day of — 18—.

Your's &c.

A. B. of —.

E. F. of —, attorney for the within-named A. B.

(§ 1.
Notice of action
to a justice, by
the party, for
false imprison-
ment.

Prac. 28*, &c.

Indorsement
thereon.

Prac. 29, 30.

* The references in the margin, under the Titles, are to the pages in the *ninth* edition of the *Practice*, where the *Forms* in this edition are referred to. These references are intended to connect the Forms with the body of the work, to which they are an *Appendix*; and point out to the practitioner on what occasions, and for what purposes, they are used, the decisions of the courts thereon, and the manner of applying them.

(§ 2.)

Notice of action
to a justice, by
the attorney or
agent, for false
imprisonment.

Prac. 29, &c.

To C. D. Esquire, one of his majesty's justices, &c. (1.)

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused A. B. of —, to be apprehended, &c. (*as in last*;) I do therefore, as the attorney (or agent) of and for the said A. B. in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, &c. (1.) to be sued out of his majesty's court of King's Bench, &c. (1.) against you, at the suit of the said A. B. for the said imprisonment, and shall proceed against you thereupon according to law. Dated this — day of — 18—.

Your's, &c.

(*Indorsement as before.*)

E. F. of —,

Attorney (or agent) for the said A. B.

(§ 3.)

The like, another way,
by the party.

Prac. 29, &c.

To C. D. Esquire, one of his majesty's justices, &c. (1.)

SIR,

I A. B. of —, do hereby, according to the form of the statute in such case made and provided, give you notice, that I shall, by my attorney Mr. E. F. of —, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, &c. (1.) to be sued out of his majesty's court of King's Bench, &c. (1.) against you, at my suit, and proceed thereupon according to law; for that you the said C. D. on the — day of — in the year of our Lord 18—, with force and arms, &c. caused me to be assaulted, &c. (*stating the facts specially, as in a declaration for an assault and false imprisonment, only charging the defendant with having caused them to be committed*;) and other wrongs to me the said A. B. did, to my great damage, and against the peace of our lord the now king. Dated, &c. (*as before, § 1. with the like subscription, and indorsement.*)

(§ 4.)

The like, by
the attorney, or
agent.

Prac. 29, &c.

To C. D. Esquire, one of his majesty's justices, &c. (1.)

SIR,

I do hereby, as the attorney (or agent) of and for A. B. of —, according to the form of the statute in such case made and provided, give you notice, that the said A. B. will, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, &c. (1.) to be sued out of his majesty's court of King's Bench, &c. (1.) against you, at the suit of him the said A. B. and proceed thereupon according to law; for that you the said C. D. &c. (*stating the facts specially, as in the last*;) and other wrongs to the said A. B. did, to his great damage, and against the peace of our lord the now king. Dated, &c. (*as before, § 2. with the like subscription, and indorsement.*)

(§ 5.)

The like, for issuing a warrant,
on which the
party was apprehended and de-

To C. D. Esquire, one of his majesty's justices, &c. (1.)

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, unlaw-

fully issued your warrant in writing, under your hand and seal, directed to the constable of — in the said county, and to the keeper of the gaol and house of correction at —, thereby commanding the said constable, in his majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said gaol and house of correction, the body of *A. B.* of —, therein mentioned to be charged, &c. (*reciting the warrant;*) and having, under and by virtue of the said warrant or otherwise, caused the said *A. B.* to be conveyed and delivered to the keeper of a certain common gaol or prison in —, and to be there unlawfully imprisoned, and kept and detained in prison, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of — then next following, and until he the said *A. B.* for obtaining his release and discharge from the said imprisonment, was forced and obliged to and did sue out his majesty's writ of *habeas corpus*, by virtue of which said writ he the said *A. B.* was carried and conveyed in custody before the honourable —, one of his majesty's justices of the court of —, and was by the said justice released and discharged from the said imprisonment; whereby the said *A. B.* not only suffered and underwent great pain and anxiety of mind, and was injured in his character and credit, but was also forced and obliged to and did necessarily lay out and expend divers sums of money, in the whole amounting to a large sum of money, to wit, the sum of —*l.* in and about the obtaining of his said release and discharge, and otherwise; I do therefore, as the attorney (or *agent*) &c. (*as before, § 2. with the like subscription, and indorsement.*)

To *C. D.* Esquire, one of his majesty's justices, &c. (1.)

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused *A. B.* of — to be unlawfully convicted in the penalty of —*l.* on the information of *G. H.* and on the oath of *J. K.* and *L. M.* for a supposed offence, in uttering, vending and selling, in *Great Britain*, a certain medicine called —, to *N. O.* of the price and value of —, and subject to the stamp duty of —, in and by an act of parliament made and passed in the — year of the reign of his present majesty; the bottle containing the said medicine called — not having any mark or stamp pasted, stuck, fastened and affixed thereto, marked and stamped with the mark and stamp provided and used pursuant to the said act, by the commissioners appointed to manage the duties charged on stamped vellum, parchment and paper, to denote the said duty of —, as in and by the said act is directed and required, contrary to the form of the statute in that case made and provided; although you were not a justice of the peace, residing near the place where the said supposed offence was committed, and consequently had no jurisdiction over, or right to hear or determine the same; and you having, notwithstanding such defect of jurisdiction, unlawfully issued a certain warrant in writing, under your

tained in prison, till he was released on a *habeas corpus*, &c.

Prac. 29, &c.

(§ 6.)

The like, for unlawfully convicting the party of selling medicines without a stamp, and issuing a warrant of distress, under which his goods were sold; and for refusing to permit an appeal.

Prac. 29, &c.

CHAP. I.

hand and seal, dated at —, the — day of — last, and directed to — and —, thereby commanding them, jointly and severally, that they, or some or one of them, should forthwith distrain the goods and chattels of the said *A. B.* for satisfying the said sum of —*l.* and in case the said sum of —*l.* should not be paid within six days next after such distress was made, that then they should make sale of the said goods and chattels, so distrained as aforesaid, and out of the money arising from such sale, that they should pay or cause to be paid unto the said *G. H.* the informant, the said sum of —*l.*, to be distributed as therein is mentioned; under which said warrant of distress, the house of the said *A. B.* situate at —, was unlawfully entered, and his goods and chattels therein, of a large value, forcibly taken, and detained for the space of —; and you having, in the mean time, unlawfully refused and neglected to permit an appeal from the said conviction or judgment, or to take security, though tendered, to the amount of the value of the said penalty and forfeiture, together with such costs as should be awarded in case such judgment should be affirmed; and having afterwards caused the said goods and chattels of the said *A. B.* to be sold and disposed of, to his great loss and prejudice; I do therefore, as the attorney (or agent) &c. (*as before, § 2. with the like subscription, and indorsement.*)

(§ 7.)

The like, to
custom-house
officers, for
seizing a brig,
&c.

Prac. 30, 31.

To *C. D.* and *E. F.* officers of his majesty's Customs.

You having, on or about the — day of — last, unlawfully seized and taken possession of a certain brig or vessel called —, together with her tackle, apparel, furniture and stores, and certain goods and chattels, to wit, &c. (*setting out the goods,*) of and belonging to *A. B.* of —, and being of a large value, to wit, of the value of —*l.* and from thence hitherto unlawfully kept and detained the said brig or vessel, and her tackle, apparel, furniture and stores aforesaid, and also the said goods and chattels, and converted and disposed thereof to your own use; I do therefore, as the attorney (or agent) of and for the said *A. B.* in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, &c. (1.) to be sued out of his majesty's court of King's Bench, &c. (1.) against you, at the suit of the said *A. B.* for the said trespass, and shall proceed against you thereupon according to law. Dated, &c. (*as before, § 2. omitting the indorsement; it not being required, by the statute 28 Geo. III. c. 37. § 25. or 6 Geo. IV. c. 108. § 93. that the attorney's name or place of abode should be indorsed on the notice of action to officers of the Customs, or Excise.*)

To *C. D.* and *E. F.* officers of his majesty's Excise.

(§ 8.)

The like, to
excise officers,
for seizing
goods. •

Prac. 30, 31.

You having, on or about the — day of — last, unlawfully seized, taken, and carried away a large quantity, to wit, two hundred pounds weight of soap, belonging to *A. B.* of —, and being of a large value, to wit, of the value of —*l.* and converted and disposed thereof to your own use; I do therefore as the attorney (or agent) &c. (*as in last.*)

To *C. D.* and *E. F.* officers of his majesty's Excise.

I do hereby, as the attorney (or *agent*) of and for *A. B.* of —, according to the form of the statute in such case made and provided, give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, &c. (1.) to be sued out of his majesty's court of King's Bench, &c. (1.) against you, at the suit of the said *A. B.* and proceed thereupon according to law; for that you the said *C. D.* and *E. F.* on the — day of — last, with force and arms, seized and laid hold of a certain horse of the said *A. B.* of a large price, which was then passing in and along the king's highway, and drawing a certain cart of him the said *A. B.* of a large value, wherein he was then riding, and going in and about his lawful and necessary affairs and business; and without the licence or consent, and against the will of the said *A. B.* stopped and detained him, and his said horse and cart, for a long space of time, to wit, for the space of —, during which time he the said *A. B.* not only lost and was deprived of the use and benefit of his said horse and cart, but was hindered and prevented from doing and transacting his lawful and necessary affairs and business: And also for that you the said *C. D.* and *E. F.* on the said — day of — last, with force and arms, seized and took the said horse and cart of the said *A. B.* and kept and detained the same, against his will, for another long space of time, to wit, for the space of —, during which time he the said *A. B.* lost and was deprived of the use and benefit of his said horse and cart: And also for that you the said *C. D.* and *E. F.* on the said — day of — last, with force and arms, assaulted, beat, bruised, wounded and ill-treated the said *A. B.* and imprisoned him, and kept and detained him in prison, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of —, contrary to the laws and customs of this realm, and against the will of the said *A. B.* and rent, tore, damaged and spoiled his cloaths, of a large value, which he then had on and wore: And other wrongs to the said *A. B.* did, to his great damage, and against the peace of our lord the now king. Dated, &c. (*as before*, § 2. *omitting the indorsement.*)

(§ 9.)

The like, another way, for stopping and detaining a horse and cart, &c.

Prac. 30, 31.

I do hereby, as the attorney (or *agent*) of and for *A. B.* of —, according to the form of the statute in such case made and provided, demand of you, the perusal and copy of the warrant, by virtue or under colour whereof you did, on or about the — day of — last, apprehend the said *A. B.* and carry and convey him in custody, to and before *G. H.* Esquire, one of his majesty's justices of the peace in and for the county of —, (*or, seize take and carry away certain goods and chattels, to wit, &c. of the said A. B. of a large value, to wit, of the value of —l. and convert and dispose thereof to your own use.*) Dated, &c. (*as before*, § 2. *omitting the indorsement.*)
To Mr. *C. D.*

(§ 10.)

Demand on constable, of the perusal and copy of warrant.

Prac. 33, 4.

(§ 11.)
The like, on a
gaoler.

Prac. 33, 4.

I do hereby, as the attorney (or *agent*) of and for *A. B.* of —, according to the form of the statute in such case made and provided, demand of you the perusal and copy of the warrant of commitment and detainer, under which you received into your custody the said *A. B.* on or about the — day of — last, and kept and detained him in custody, for the space of — then next following. Dated, &c. (*as in last.*)
To Mr. *C. D.*

CHAP. II.

(There are no Forms referred to in this Chapter of the Practice.)

CHAP. III.

ARTICLES of CLERKSHIP; AFFIDAVITS, &c. for AD-
MISSION, or RE-ADMISSION, of ATTORNIES; WRITS of PRI-
VILEGE; and ATTACHMENT for CONTEMPT, &c.

ARTICLES of Agreement indented, had, made, concluded and fully agreed upon, the — day of —, in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our Lord 18—. Between *A. B.* of — gentleman, one of the attorneys of his majesty's courts of King's Bench and Common Pleas at *Westminster*, and a solicitor in the high court of Chancery, of the one part, and *C. D.* of —, and *E. D.* son of the said *C. D.* of the other part: Witness, that the said *E. D.* of his own free will, and by and with the consent and approbation of the said *C. D.* his father, hath put, placed and bound himself, and by these presents doth put, place and bind himself, clerk to the said *A. B.* to serve him from the day of the date hereof, for and during, and until the full end and term of five years from hence next ensuing, and fully to be complete and ended: And the said *C. D.* doth for himself, his heirs, executors and administrators, covenant promise and agree to and with the said *A. B.* his executors, administrators and assigns, by these presents, in manner following, (that is to say;) that the said *E. D.* shall and will well and faithfully serve the said *A. B.* as his clerk, in the profession of an attorney at law and solicitor in Chancery, from the day of the date hereof, for and during the said term of five years: And that he the said *E. D.* shall not, at any time during the said term of five years, cancel, obliterate, spoil, destroy, waste, embezzle, spend or make away with, any of the books, papers, writings, monies, stamps, or other property of the said *A. B.* his executors, administrators or assigns, or any of his clients or employers, which shall be deposited in his hands, or entrusted to his custody or possession, or to the care, custody or possession of him the said *E. D.*: And that in case he the said *E. D.*

(§ 1.)
Articles of
clerkship, to
an attorney
and solicitor.
Prac. 61.

CHAP. III. shall act contrary to the last-mentioned covenant, or if he the said *A. B.* his executors, administrators or assigns, shall sustain or suffer any loss, damage or prejudice, by the misbehaviour or neglect of the said *E. D.* he the said *C. D.* his executors or administrators, shall make good and reimburse him the said *A. B.* the amount or value thereof: And further, that he the said *E. D.* shall and will, from time to time, and at all times during the said term of five years, keep the secrets of the said *A. B.* and readily and cheerfully obey and execute his lawful and reasonable commands; and shall not depart, or absent himself from the service or employ of the said *A. B.* at any time during the said term, without his consent first obtained; but shall from time to time, and at all times during the said term, conduct himself with all due diligence, honesty, sobriety and temperance: And that he the said *C. D.* his executors and administrators shall and will, from time to time, and at all times during the said term of five years, at his and their proper costs, find and provide the said *E. D.* with all and all manner of necessary and becoming apparel and washing, and also physic and surgery in case of sickness. And the said *E. D.* doth hereby, for himself and on his part, consent and agree to and with the said *A. B.* his executors, administrators and assigns, that he the said *E. D.* shall and will truly and honestly serve him the said *A. B.* at all times for and during the said term, as a faithful clerk ought to do, in all things whatsoever, in the manner above specified. In consideration whereof, and of the sum of — *l.* of lawful money of *Great Britain*, by the said *C. D.* to the said *A. B.* in hand well and truly paid, at or before the sealing and delivery of these presents, (the receipt whereof he the said *A. B.* doth hereby acknowledge, and of and from the same, and every part thereof, doth acquit, release and discharge the said *C. D.* his executors and administrators, and every of them, for ever, by these presents,) he the said *A. B.* for himself, his heirs, executors and administrators, doth covenant, promise and agree to and with the said *C. D.* his executors and administrators, by these presents, in manner following, (that is to say;) that he the said *A. B.* shall and will accept and take the said *E. D.* as his clerk, and shall and will find and provide him during the said term, with board and lodging: And also that he the said *A. B.* shall and will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said *E. D.* in the said practice or profession of an attorney at law and solicitor in Chancery, which he the said *A. B.* now doth, or shall at any time hereafter during the said term, use or practise; and also shall and will, at the expiration of the said term, use his best means and endeavours, at the request costs and charges of the said *C. D.* and *E. D.* or either of them, to cause and procure him the said *E. D.* to be admitted and sworn an attorney of his majesty's said courts of King's Bench and Common Pleas, or either of them, or any other of his said majesty's courts of law or equity, provided he the said *E. D.* shall have well and faithfully served his said intended clerkship. In witness, (&c.)

In the King's Bench, (or Common Pleas.)

G. H. of —, maketh oath and saith, that by articles of clerkship, bearing date the — day of — last past, and made between A. B. of — gentleman, one of the attornies of his majesty's court of King's Bench (or Common Pleas) at Westminster, and a solicitor in the high court of Chancery, of the one part, and C. D. of —, and E. D. son of the said C. D. of the other part, the said E. D. for the considerations therein mentioned, did put, place, and bind himself clerk to the said A. B. to serve him in the profession of an attorney at law, and solicitor in Chancery, from the day of the date of the said articles, for the term of five years from thence next ensuing, and fully to be complete and ended; and which said articles were in due form of law executed by the said A. B. C. D. and E. D. on the day of the date of the same; and that the several names, A. B. C. D. and E. D. set and subscribed opposite the several seals affixed to the said articles, as the parties executing the same, are of the respective proper handwriting of the said A. B. C. D. and E. D.; and were written and subscribed in the presence of this deponent and J. K. of —: and that the names of G. H. and J. K. set and subscribed as witnesses to the due execution thereof, are of the respective proper hand-writing of this deponent and the said J. K.

(§ 2.)
Affidavit of execution of articles of clerkship*.
Prac. 64.

G. H.

Sworn, &c. (Post, Chap. xix. § 6, &c.)

In the King's Bench, (or Common Pleas.)

E. D. of —, maketh oath and saith, that he hath taken the degree of bachelor of arts, in the university of —; and that he did take such degree, within six years next after the day when he was first matriculated in the said university: And this deponent further saith, that by articles of clerkship, bearing date, (&c.) and made within four years next after the day when this deponent had first taken such degree, between, &c. (as in last, stating the term of service to be three, instead of five years.)

(§ 3.)
The like, where the clerk has taken a degree at the university, on stat. 1 & 2 Geo. IV. c. 48. § 4.
Prac. 63, 4.

Sworn, &c. (Post, Chap. xix. § 6, &c.)

E. D.

Notice is hereby given, that E. D. of —, now (or lately) under articles of clerkship to A. B. of — attorney at law, intends to apply next — term, to be admitted (or re-admitted) an attorney of his majesty's court of King's Bench, (or Common Pleas.) Dated this — day of —, 18—.

(§ 4.)
Notice of intention to apply for admission, or re-admission, as an attorney.

E. D.

Prac. 69, 70.

In the King's Bench, (or Common Pleas.)

E. D. of — gentleman, maketh oath and saith, that he hath really and truly served and been employed by A. B. of — gentleman, as his clerk, in the practice of an attorney and solicitor, from the — day of — in the year 18—, being the day of the date of certain articles of

(§ 5.)
Affidavit of service of clerkship†.
Prac. 69, 70.

* This form, and those in § 5, 6, 7, 9, 10. were settled by the Judges of the court of King's Bench.

† If the clerkship, or part of it, has been served in the country, a certificate, as to the due service, should be sent up, or a satisfactory account given by affidavit for the want thereof; and such certificate should be verified by the agent in town, who should attend at the judge's chambers, to speak to the character and capability of the applicant. If the clerkship has been served in town, the master should attend, for that purpose, at the judge's chambers.

CHAP. III.

clerkship, made between the said *A. B.* of the one part, and *C. D.* and the said *E. D.*, son of the said *C. D.* of the other part, for the full term of five years, pursuant to the articles hereunto annexed. *E. D.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 6.)

The like, where the articles had been assigned.

Prac. 69, 70.

In the King's Bench, (*or Common Pleas.*)

E. D. of — gentleman, maketh oath and saith, that he really and truly served, and was employed by *A. B.* of — gentleman, as his clerk, in the practice of an attorney and solicitor, from the day of the date of certain articles of clerkship, made between the said *A. B.* and *C. D.* and the said *E. D.*, bearing date the — day of — in the year 18—, until the — day of — in the year 18—, being the full term of — years, — months, and — days. And this deponent further saith, that he was duly assigned, for the remainder of the said term of five years, unto *G. H.* of —; and that he hath really and truly served and been employed by the said *G. H.* as his clerk, in the practice of an attorney and solicitor, from the day of the date of certain articles of assignment, made between the said *A. B. C. D. E. D.* and *G. H.* bearing date the — day of — in the year 18—, until the — day of — in the year 18—, being the full term of — years, — months, and — days, pursuant to the said articles of assignment hereunto annexed. And this deponent *E. D.* further saith, that he hath really and truly served and been employed as clerk, for the full term of five years, pursuant to the said articles of clerkship, and assignment above mentioned. *E. D.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 7.)

Affidavit of notice of intention to apply for admission, in K. B. *Prac. 69, 70.*

In the King's Bench.

J. K. of — maketh oath and saith, that he did, previous to last — term, affix the name and place of abode of *A. B.* of —, as well as the name and place of abode of *E. D.** of —, in the King's Bench office, and on the outside of the court of King's Bench, at *Westminster-hall*, in such place as public notices are usually affixed on, according to the rule of court in that behalf: And that such notices remained there the whole of that term, and were not pulled down or defaced, according to the best of the knowledge or belief of this deponent: And that he did also, previous to the same term, enter the name and place of abode of the said *A. B.* as well as the name and place of abode of the said *E. D.* in the books kept for that purpose, at the chambers of each of the judges of his majesty's court of King's Bench: And that such notices and entry in the books above-mentioned, purported that it was the intention of the said *E. D.* to apply the then next — term, to be admitted an attorney of this honourable court. *J. K.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

In the Common Pleas.

(§ 8.)

The like, in C. P.

Prac. 69, 70.

J. K. of — gentleman, maketh oath and saith, that he this deponent did, previous to the first day of — term last, affix notices in

* If the articles have been assigned, it is also usual to insert in the affidavit, the name of the assignee.

writing upon the outside of the court of Common Pleas at *Westminster-hall*, in such place as public notices are usually affixed on, and also at the several judges' chambers of this honourable court, and likewise in the Common Pleas office, purporting that *E. D.* of —, clerk (or late clerk) to *A. B.* of —, intended to apply, as of the then next — term, to be admitted an attorney of this honourable court; and which said notices did contain the names and places of abode of the said *E. D.* and *A. B.* respectively. CHAP. III.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

In the King's Bench, (or Common Pleas.)

E. D. of — gentleman, maketh oath and saith, that the duty of 120*l.* imposed on articles of clerkship, by an act of parliament made and passed in the 55th year of his late majesty's reign, was paid on certain articles of clerkship, bearing date the — day of — in the year 18—, and made between *A. B.* of — gentleman, of the one part, and *C. D.* of — and this deponent *E. D.* son of the said *C. D.* of the other part, as appears by the stamp affixed on the said articles. And this deponent further saith, that the said articles were duly executed by the respective parties therein mentioned, on the day of the date thereof, and were duly registered on the — day of — then next, as appears by the certificate of — indorsed thereon.

(§ 9.)
Affidavit of
payment of
duty on articles.
Prac. 70.

E. D.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

In the King's Bench, (or Common Pleas.)

(*As in the last, with the following addition.*) And this deponent *E. D.* further saith, that the duty of 1*l.* 15*s.* was paid on certain articles of assignment, bearing date the — day of — in the year 18—, and made between *A. B.* of — gentleman, of the first part, *C. D.* of — and this deponent *E. D.* of the second part, and *G. H.* of — gentleman, of the third part, as appears by the stamp affixed on the said assignment. And this deponent further saith, that the said assignment was duly executed by the respective parties therein mentioned, on the — day of — 18—, (*the date thereof,*) and was duly registered on the — day of — then next, as appears by the certificate of — indorsed thereon.

(§ 10.)
The like, where
the articles had
been assigned.
Prac. 70.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

E. D.

I *E. D.* do swear, (*or, if a quaker, do affirm,*) that I will truly and honestly demean myself in the practice of an attorney, according to the best of my knowledge and ability. So help me God.

(§ 11.)
Oath, or affirm-
ation, on ad-
mission.

Prac. 70.

— on (or next after) —, in the — year of the reign
of king George the Fourth*.

(§ 12.)
Rule of court
for admission
of a Roman
Catholic attor-
ney, in K. B.
Prac. 71.

It appearing unto this court, that *E. D.* of — gentleman, is duly qualified to act as an attorney of his majesty's court of King's Bench at *Westminster*; and he having this day taken, in open court, the oaths appointed

* In the King's Bench, the rules of court are entitled on the day of the week, and return day of the term, in which they are made; as for instance, if a rule be made on a general return day, it is entitled *Monday* (or other day of the week,) on that return day; or if made on a particular return day, it is entitled *Monday*, (&c.) next after the last preceding general return day.

CHAP. III.

to be taken, instead of the oaths of allegiance and supremacy * ; and also taken and subscribed the oath appointed to be taken by attornies, by an act of parliament made and passed in the second year of the reign of his late majesty king *George* the second, intituled “ An act for the better regulation of attornies and solicitors ;” this court doth hereby admit him an attorney of his majesty’s said court of King’s Bench, and order his admission to be enrolled by the proper officer of the said court, pursuant to the directions of the said act. Dated this — day of —, 18—.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

By the Court.

Enrolled the same day. *T. Le Blanc.*

(§ 13.)

Affidavit by attorney, who had not taken out his certificate, (having served as clerk,) to be re-admitted, on payment of a small fine, without arrears of stamp duty, in K. B.

Prac. 80.

In the King’s Bench.

A. B. of — gentleman, maketh oath and saith, that the duty of 120*l.* imposed upon articles of clerkship, was paid on certain articles, bearing date, &c. and made between *C. D.* of — gentleman, then one of the attornies of this honourable court, (since deceased,) of the one part, and *E. F.* of —, (since also deceased,) and his son, this deponent, of the other part ; and that he this deponent was duly admitted an attorney of this honourable court, in — term, in the year 18—, and hath obtained — annual certificates, authorizing him this deponent to practise during the years 18—, 18—, and 18—. And this deponent further saith, that he hath ceased to renew the last of such annual certificates, from the expiration thereof, on the 16th day of *December* 18—, on account of his having, from the same 16th day of *December*, until the month of — last, been employed by respectable attornies of this honourable court, and the court of Common Pleas, and solicitors in Chancery, as their clerk ; and having been thereby prevented from practising for his this deponent’s own advantage, and not from any desire to defraud his majesty’s revenue, nor on account of any threat, fear, or apprehension of any application or motion being made to this court against him this deponent. And that he this deponent hath not incurred any penalty or penalties whatsoever, by practising as an attorney, in his own or any other person’s name. And this deponent further saith, that from the said 16th day of *December* 18—, the time of the expiration of the last certificate obtained by this deponent as aforesaid, down to the present time, he hath actually abstained from practising as an attorney, for his own benefit and profit, and hath, from the said 16th day of *December* 18—, until the month of — last, been employed solely as clerk to respectable attornies of the courts of King’s Bench and Common Pleas, and solicitors in Chancery, and for their sole benefit and profit ; and that he this deponent hath not been at any time employed, concerned or engaged, either as principal or otherwise, in any other profession or business. And this deponent further saith, that he did, previous to the said first day of — term last, affix upon the outside of the court of King’s Bench at *Westminster-hall*, and in the King’s Bench office, in such places as public notices are usually affixed

* See stat. 31 Geo. III. c. 32. § 22.

on, and also did enter in the books kept for that purpose at the chambers of each of the judges of this honourable court, notices in writing, purporting that this deponent intended to apply, the then next — term, to be re-admitted an attorney of this honourable court; and which said notices did contain the name and place of abode of this deponent, and the name and late place of abode of the said *C. D.* deceased; and, to the best of this deponent's knowledge and belief, such notices remained and continued so affixed and entered, during the whole of — term last. And this deponent further saith, that he this deponent did, previous to the said first day of — term last, serve the solicitor for the commissioners of his majesty's stamp duties, with a notice in writing, containing the name and place of abode of this deponent, and the name and late place of abode of the said *C. D.* deceased; and purporting that he this deponent intended to apply the then next — term, to be re-admitted an attorney of this honourable court, on payment of a penalty of 20s., and taking out a certificate for the year 18—, by delivering to, and leaving with a clerk of the said last-mentioned solicitor, at the stamp office, in *Somerset House*, a true copy of such notice.

A. B.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

— on (or next after) —, &c. (11.)

Ex parte B. gentleman.

Upon reading the affidavit of *A. B.* gentleman, it is ordered, that the said *A. B.* be re-admitted an attorney of this court, on payment of a penalty of —*l.* and taking out a certificate for the present year. Upon the motion of Mr. *William Hills*.

By the Court.

In the King's Bench, (*or Common Pleas.*)

A. B. of — gentleman, and *E. F.* of —, clerk to *C. D.* gentleman, severally make oath and say; and first this deponent *A. B.* for himself saith, that he was duly admitted an attorney of this honourable court, in — term, in the year 18—, and duly obtained his annual certificates, authorizing him to practise as such attorney, until the year 18—. And this deponent *A. B.* further saith, that the said *C. D.* was his agent from the year 18—, to the year 18—; during which time he the said *C. D.* had general directions from this deponent, to take out and procure this deponent's certificate every year, as the same should be requisite, to enable this deponent to continue his practice as such attorney as aforesaid: And this deponent *A. B.* further saith, that he hath lately been informed by the said *C. D.* and verily believes, that the said *C. D.* inadvertently omitted to take out or procure this deponent's certificate for the year 18—; but this deponent saith, that he had no notice whatever of his said last-mentioned certificate not having been regularly taken out, before his receiving notice thereof from the said *C. D.*: And this deponent *E. F.* for himself saith, that he did, on the — day of — last, serve a true copy of the notice hereunto annexed, on the solicitor for his majesty's stamp duties, by delivering the same to, and leaving it with a clerk of the said solicitor, in the said solicitor's office, at *Somerset House*.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

(§ 14.)

Rule of court thereon.

Prac. 80.

(§ 15.)

Affidavit by attorney to be re-admitted, upon payment of arrears of duty and fine, where his agent had inadvertently omitted to take out certificate.

Prac. 79.

(§ 16.)
Rule of court
thereon, in K. B.
Prac. 79.

— on (or next after) —, &c. (11.)

In the matter } Upon reading the affidavit of *A. B.* and *E. F.*, it is
of *A. B.* } ordered, that the said *A. B.* be re-admitted an attorney
of this court, upon payment of the arrears of duty, and — *l.* by way
of fine. Upon the motion of Mr. *Edward Nucella.* By the Court.

(§ 17.)
Writ of privi-
lege, to an in-
ferior court, for
an attorney of
K. B.

Prac. 81.

George the Fourth, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. To the judges of our court of our palace of *Westminster*, and to every of them, greeting: Whereas, according to the custom of our court before us at *Westminster*, hitherto used and approved of in the same, the attorneys of our same court before us, whilst they are prosecuting or defending suits and actions therein for their clients, ought not, nor have they from time immemorial been used to be compelled, to answer before any of our justices or officers, or other secular judges whatsoever, upon any pleas, complaints or demands, which do not particularly relate to us, (pleas of freehold, felonies and appeals, excepted,) save only before us, by bill exhibited in our said court before us, and not by writ: And whereas we have lately received information, by the complaint of *A. B.* gentleman, one of the attorneys of our said court, that several ill-disposed persons, intending to disquiet the said *A. B.* have issued forth and prosecuted out of our court of our palace of *Westminster*, one or more writ or writs, returnable before you in the same court, or one or more precept or precepts, returnable in our said court before you or one of you, against the said *A. B.* and threaten to arrest and detain him in your custody thereupon, in suits that do not relate to us, or pleas of freehold, felonies or appeals, whereby the said *A. B.* is unable to attend his said office as an attorney, upon several affairs and suits depending in our said court before us; which, if it be permitted, will not only take away, and be in derogation and diminution of the jurisdiction of our said court before us, and the liberties and privileges thereof, but also to the great detriment of the said *A. B.* and his clients: And because we are willing that the jurisdiction, privileges, and customs, for so long time used and approved in our said court before us, should be inviolably kept and observed; we command you, and every of you, that you desist from taking the said *A. B.* into your custody, upon any writ or writs, precept or precepts: and if the said *A. B.* be detained in your custody by any writ or writs, precept or precepts, other than such as particularly relate to us, (pleas of freehold, felonies, and appeals only excepted,) that then you discharge the said *A. B.* out of your custody, and suffer him to go at large, as you will answer the contrary at your peril; and that you inform the party or parties, plaintiff or plaintiffs, in the plaint or complaints, that he, she, or they may prosecute his, her, or their action or actions, suit or suits, in our court before us, by bill to be exhibited to us, in our said court before us at *Westminster*, against the said *A. B.* if he, she, or they shall think it expedient so to do. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of —, in the — year of our reign.

Ellenborough.

George the Fourth, &c. (14.) To the commissioners appointed for carrying into execution the several acts of parliament hereinafter enumerated, that is to say, "An act," &c. (*here enumerate the acts, as in the warrant of appointment,*) and particularly to *E. F. G. H. and J. K.* three of the said commissioners, greeting: Whereas it has been shewn to us, on behalf of *A. B.* one of the attornies of our court before us, that whereas he is one of the attornies of our said court before us, and prosecutes and defends divers suits and businesses of and for many of our liege subjects, prosecuting and defending in our said court before us, as their attorney; and that according to the liberties and privileges of the said court, from time whereof the memory of man is not to the contrary used and approved of, no attorney of the same court ought to be appointed or compelled to take upon him any office or service, to be exercised or performed elsewhere than in our court aforesaid, whereby he may be withdrawn from his due attendance in our said court: Nevertheless, you or some of you, contriving to aggrieve the said *A. B.* have appointed or intend to appoint him to the office of one of the collectors of the several taxes, rates and duties, under the management of the commissioners for the affairs of taxes, within the town and hamlet of —, in the lower division of the hundred of —, in the county of —, which office, as we are informed, will require his constant residence there; and which, if it be permitted, would tend to the manifest loss and damage of the said *A. B.* and many of our liege subjects, whose attorney he is in the court aforesaid: Wherefore the said *A. B.* has humbly besought us to provide him a proper remedy in this behalf; and we being willing that the liberties and privileges of our said court should be inviolably observed, command you, and every of you, that without regard to the aforesaid appointment of the said *A. B.* you or some of you cause to be appointed another fit person to the said office; and that you or some of you without delay exonerate and discharge the said *A. B.* from the said office; and that you altogether cease and abstain from proceeding against him for not taking upon him the same, as you will answer the contrary at your peril. Witness, &c. (*as in last.*)

(§ 18.)
The like, to discharge an attorney from the office of collector of taxes.

Prac. 82.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you do not forbear by reason of any liberty in your bailiwick, but that you attach *C. D.* gentleman, one of the attornies of our court before us, so that you may have him before us at *Westminster*, on — next after —, to answer to us, for certain trespasses and contempts brought against him in our court before us; and have you there then this writ. Witness, &c. (*as in last but one.*)

(§ 19.)
Attachment for contempt, against an attorney, in *K. B.*
Prac. 88. 481.

George the Fourth, &c. (14.) To the sheriff of — greeting: Attach *C. D.* gentleman, one of the attornies of our court of Common Bench, so that you have him before our justices at *Westminster*, on — next after —, to answer to us, of and concerning those things which shall then on our behalf be objected against him; and have you there then this writ. Witness *Sir William Draper Best* knight, at *Westminster*, the — day of —, in the — year of our reign.

(§ 19. a.)
The like, in *C. P.*
Prac. 88. 481.

(§ 20.)
Interrogatories
thereon.

Prac. 481.

In the King's Bench, (or Common Pleas.)

— term, in the — year of the reign of king George
the Fourth.

A. B. } Interrogatories to be administered to *C. D.* of — gen-
v. } tleman, one of the attornies of the court of our lord the now
C. D. } king before the king himself, (or, in *C. P.* "of the Bench at
&c. } Westminster,") touching and concerning a contempt supposed
to be by him committed against the said court.

(Here insert such interrogatories as are adapted to the case, concluding
with the jurat as follows:)

The above-named *C. D.* was sworn, the — day of
— 18—, true answer to make to such questions as
should be asked him, on his examination on the above
interrogatories, before me, at my chambers, in *Ser-
jeant's Inn, Chancery Lane.*

— (Judge's name.)

(§ 21.)
Affidavit by at-
torney, to get
himself struck
off the roll.

Prac. 89.

In the King's Bench, (or Common Pleas.)

A. B. of — gentleman, one of the attornies of this honourable court,
maketh oath and saith, that he was duly admitted an attorney of this
honourable court, in — term, 18—; and that he is desirous of having
his name struck off the roll of attornies of this court, for the purpose of
his being called to the bar, by the honourable society of —, (or as
the case may be:) And this deponent further saith, that no application or
other proceeding is now pending against him, nor doth he expect or ap-
prehend that any application will be made had or commenced against
him, as such attorney as aforesaid.

A. B.

Sworn, &c. (Post, Chap. xix. § 6, &c.)

— on (or next after) —, &c. (11.)

(§ 22.)
Rule of court
thereon, in K.B.
Prac. 89.

In the matter of } Upon reading the affidavit of *A. B.* it is ordered,
A. B. one, &c. } that the said *A. B.* of — in the county of —, (or
city, &c.) be struck off the roll of attornies of this court, at his own
request, upon payment of all such fees as are due to the chief clerk, or
any of his clerks. Upon the motion of Mr. Samuel Carpenter.

By the Court.

CHAP. IV.

WARRANTS of ATTORNEY, to prosecute or defend; and PROCEEDINGS for PAUPERS, and INFANTS.

—— (to wit). *A. B.* puts in his place *E. F.* his attorney, against *C. D.* (or, in the Common Pleas, against *C. D.* late of ——,) of a plea of trespass on the case, (or debt, &c. according to the nature of the action.)

(§ 1.)
Warrant of attorney for plaintiff.
Prac. 93.

—— (to wit). The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

(§ 2.)
The like, for defendant.
Prac. 93.

The stamp duty on warrants of attorney having been repealed by the statute 5 Geo. IV. c. 41. the filing of a memorandum, or minute of the warrant, is in consequence disused.

(§ 3, 4, 5.)
Prac. 96.

B. } Let Mr. *G. H.* the plaintiff's attorney, or his agent, attend me at
v. } my chambers in *Serjeant's Inn*, to-morrow at —— o'clock, to shew
D. } cause why Mr. *E. F.* should not be appointed attorney for the plaintiff in this cause, in his stead.

(§ 6.)
Summons to change plaintiff's attorney, in K. B.
Prac. 94.

B. } I order that Mr. *E. F.* be appointed attorney for the plaintiff in
v. } this cause, in the stead of Mr. *G. H.* Dated the —— day of ——
D. } 18—. *Tenterden.*

(§ 7.)
Order thereon, in K. B.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 8.)
Petition of plaintiff, to be admitted to sue in form pauperis.
Prac. 97, 509.

To the Right Honourable *Charles Lord Tenterden*, Lord Chief Justice of his Majesty's Court of King's Bench, (or, in the Common Pleas, "To the Right Honourable Sir *William Draper Best* knight, Lord Chief Justice of his Majesty's Court of Common Pleas;" or, in the Exchequer, "To the Right Honourable Sir *William Alexander* knight, Lord Chief Baron of his Majesty's Court of Exchequer, at *Westminster*, and the rest of the Barons of the said Court.")

The humble petition of *A. B.* of ——.

Sheweth,

That the said defendant is justly indebted unto your petitioner, in the sum of ——*l.* for the work and labour of your petitioner, done for the said defendant, at his request, (or as the case may be;) and your petitioner hath commenced an action against him for the same, but finds himself unable (or, hath not yet commenced any action against him for the same,

CHAP. IV.

being unable) to carry on the said cause, on account of his extreme poverty, as appears by the affidavit hereto annexed.

Your petitioner therefore most humbly prays your lordship, (*or, in the Exchequer, your honours,*) that he may be admitted to prosecute his said action *in formâ pauperis*; and that *Samuel Marryat* Esquire may be assigned to him as his counsel, and *E. F. Gentleman* as his attorney, to prosecute the said suit.

And your petitioner shall ever pray, &c.

(§ 9.)
Affidavit in
support thereof.
Prac. 97.

In the King's Bench, &c. (17.) *A. B. plaintiff, &c. (id.)*

A. B. of — maketh oath and saith, that he is not worth *five* pounds in the world, (save and except his wearing apparel, and the matter in question in this cause.) *A. B.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 10.)
Opinion of
counsel.

Prac. 97.

I humbly conceive, that the said petitioner hath good cause of action against the above-named *C. D.* and consent to be his counsel.

Samuel Marryat.

(§ 10. a.)
Judge's order
thereon.
Prac. 97.

B. } Upon reading the petition and affidavit of *A. B.*, and the certifi-
v. } cate of counsel, I do admit the plaintiff to sue *in formâ pauperis*;
D. } and I do assign *Samuel Marryat* Esquire to be his counsel, and
E. F. Gentleman to be his attorney. *Tenterden.*

(§ 11.)
Petition by an
infant, to be ad-
mitted to sue by
prochein ami.
Prac. 99, 100,
509.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

To the Right Honourable *Charles Lord Tenterden, &c. (as before,*
p. 17.)

The humble petition of *A. B.* the plaintiff in this cause;
Sheweth,

That your petitioner has, as he is advised, good cause of action against the above-named *C. D.* for a breach of promise of marriage, &c. (*as the case may be*;) and that your petitioner has lately commenced an action in this honourable court, against the said *C. D.* for the same; but in regard that your petitioner is an infant, under the age of twenty one years, to wit, of the age of —;

Your petitioner therefore humbly prays your lordship, (*or, in the Exchequer, your honours,*) to admit him to prosecute the said action by *E. F.* of — your petitioner's next friend.

And your petitioner shall ever pray, &c.

(§ 12.)
The like, to de-
fend by guar-
dian.

Prac. 99, 100,
509.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

To the Right Honourable *Charles Lord Tenterden, &c. (as before,*
p. 17.)

The humble petition of *C. D.* the defendant in this cause;
Sheweth,

That the above-named plaintiff has lately commenced an action at law against your petitioner, for, &c. (*here set forth the cause of action*;) and your petitioner is advised and believes, that he has a good defence to make thereto; but in regard that your petitioner is an infant under the age of twenty one years;

Your petitioner therefore humble prays your lordship, (*or, in the Exchequer, your honours,*) that you would be pleased to assign *G. H.* of — as his guardian, to defend this suit. CHAP. IV.

And your petitioner shall ever pray, &c.

I do hereby consent and agree, that the above-named *A. B.* shall be at liberty to prosecute this action, by me as his next friend, (*or, that the above-named C. D.* shall be at liberty to defend this action, by me as his guardian,) according to the prayer of the above petition. Witness my hand this — day of — 18—. E. F.

Witness, *G. H.*

In the King's Bench, &c. (17.) *A. B.* plaintiff, &c. (*id.*) (§ 13.)

G. H. of — maketh oath and saith, that *A. B.* the above-named plaintiff, (*or, C. D.* the above-named defendant,) did on — the — day of — instant, duly sign the petition hereunto annexed, in the presence of this deponent: And this deponent further saith, that at the same time he was present, and did see *E. F.* the person mentioned in the prayer of the said petition, duly sign the consent or agreement thereunder written, as the next friend of the said *A. B.* (*or, as the guardian of the said C. D.*)

Sworn, &c. (*Post, Chap. xix, § 6, &c.*) *G. H.*

For the form referred to in the Practice, as being in this section, see opposite, § 10. a. (§ 14.)

B. } Upon reading the petition of *A. B.*, the consent of *E. F.* there-
v. } under written, and the affidavit of *G. H.*, I do order that the clerk
D. } of the rules do draw up a rule, that the said *E. F.* be admitted to
prosecute for the said *A. B.*, who is an infant under the age of twenty one years, against *C. D.* a certain action of trespass on the case, (*or as the action is,*) in the court of the lord the king before the king himself, as the next friend of the said *A. B.* during his minority. Dated the — day of —, 18—. Tenterden.

— on (*or, next after*) —, &c. (11.)

It is ordered by the court, that *E. F.* be admitted to prosecute for *A. B.* who is under the age of twenty one years, against *C. D.* a certain action of trespass on the case, (*or, as the action is,*) in the court of the lord the king before the king himself, as the next friend of the said *A. B.* during his minority. (§ 15.)

By the Court.

It is ordered by the court, that *G. H.* be admitted to defend for *C. D.* who is under the age of twenty one years, at the suit of *A. B.*, a certain action of trespass on the case, (*or, as the action is,*) in the court of the lord the king before the king himself, as the guardian of the said *C. D.* during his minority. Rule of court thereon.

By the Court.

E. F. is admitted to prosecute and defend for *A. B.* who is under the age of twenty one years, all and all manner of actions, suits and controversies whatsoever, in the court of the lord the king before the king himself, as the next friend and guardian of the said *A. B.* during his minority. Admitted the — day of — 18—. Tenterden.

(§ 13.)
Consent of *prochein ami*, or guardian.
Prac. 100.

(§ 14.)
Affidavit of signature of petition, and consent.
Prac. 100.

(§ 15.)
Prac. 97.

(§ 16.)
Judge's order, for drawing up rule, in K. B.
Prac. 100.

(§ 17.)
Rule of court thereon.
Prac. 100.

(§ 18.)
Rule of court for the admission of a guardian for defendant, in K. B.
Prac. 100.

(§ 19.)
General admission to prosecute and defend, &c. in K. B.
Prac. 100.

CHAP. V.

ORIGINAL WRITS ; *and* PROCESS *thereon*, PREVIOUS *to the* CAPIAS, *in the* KING'S BENCH, *and* COMMON PLEAS.

(§ 1.)
Præcipe for ori-
ginal writ, in
covenant.

Prac. 105.

— (to wit.) COMMAND *C. D.* late of —, that justly and without delay he keep with *A. B.* the covenant (*or* covenants) made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture, (*or* deed poll, *or* articles of agreement, as the case may be,) in that behalf made between them, as it is said ; and unless, &c.

Returnable before the lord the king, on —, wheresoever, &c. (*or, in C. P.* before his majesty's justices at *Westminster*, on —.)

(§ 2.)
Original writ
thereon.

Prac. 104.

George the Fourth, &c. (14.) To the sheriff of — greeting: Command *C. D.* late of —, that justly and without delay he keep with *A. B.* the covenant (*or* covenants) made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture, (*or* deed poll, *or* articles of agreement,) in that behalf made between them, as it is said : and unless he shall so do, and if the said *A. B.* shall make you secure of prosecuting his claim, then summon by good summoners, the said *C. D.* that he be before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* before our justices at *Westminster*, on —,) to shew wherefore he hath not done it ; and have there the names of the summoners, and this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

(§ 3.)
Præcipe for ori-
ginal writ, in
debt.

Prac. 105.

— (to wit.) Command *C. D.* late of —, that justly and without delay he render to *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owes to and unjustly detains from him, as it is said ; and unless, &c.

Returnable before the lord the king, on — wheresoever, &c. (*or, in C. P.* before his majesty's justices at *Westminster*, on —.)

(§ 4.)
Original writ
thereon.

Prac. 104.

George the Fourth, &c. (14.) To the sheriff of — greeting: Command *C. D.* late of —, that justly and without delay he render to *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owes to and unjustly detains from him, as it is said : and unless, &c. (*as above*, § 2.)

(§ 5.)
Præcipe for ori-
ginal writ, in
detinue.

Prac. 104.

— (to wit.) Command *C. D.* late of —, that justly and without delay he render to *A. B.* certain goods and chattels, (*or*, deeds and writings,) of the value of —*l.* of lawful money of *Great Britain*, which he unjustly detains from him, as it is said ; and unless, &c.

Returnable before the lord the king, &c., (*as above*.)

From 40 <i>l.</i> to 100 marks, being 66 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>				£ 0 6 8	payable on original writs.
From 100 marks to 100 <i>l.</i>	-	-	-	0 10 0	<i>Prac.</i> 105.
From 100 <i>l.</i> to 200 marks	-	-	-	0 13 4	
From 133 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> to 166 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	-	-	-	0 16 8	
From 166 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> to 200 <i>l.</i>	-	-	-	1 0 0	
And for every 100 marks more	-	-	-	0 6 8	
And for every 100 <i>l.</i> more	-	-	-	0 10 0	

(§ 14.)

Notice to appear to summons (or attachment,) on stat. 7 & 8 Geo. IV. c. 71. § 5.

Prac. 113.

C. D. (naming the defendant.)

You are served with this process, at the suit of *A. B. (naming the plaintiff, or plaintiffs,)* to the intent that you may appear by your attorney, in his majesty's court of — at *Westminster*, at the return hereof, being the — day of —, in order to your defence in this action: and take notice, that in default of your appearance, the said *A. B.* will cause an appearance to be entered for you, and proceed thereon, as if you had yourself appeared by your attorney.

(§ 15.)

Return to original on the above statute, that the defendant has been personally served with a summons (or attachment.)

Prac. 113.

(§ 16.)

The like, where the defendant cannot be met with.

Prac. 113.

(§ 17.)

Affidavit thereon, to found a *distingas*.

Prac. 113.

By virtue of this writ to me directed, I have caused the within-named *C. D.* to be personally served with a summons (or attachment) thereon; at the foot of which summons (or attachment) there was written a notice, informing the said *C. D.* of the intent and meaning of such service, pursuant to the statute in that case made and provided.

The answer of — sheriff.

The within-named *C. D.* hath nothing in my bailiwick, by which he can be summoned (or attached,) nor is he found in the same, so that he cannot be personally served with a summons (or attachment) on this writ, pursuant to the statute in that case made and provided.

The answer, &c. (*as above.*)

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

E. F. of — gentleman, attorney for the above-named plaintiff, maketh oath and saith, that he this deponent did, on or about the — day of — instant, (or last past,) cause an original writ to be issued out of his majesty's high court of Chancery, at the suit of the above-named plaintiff, against the above-named defendant, in a plea of breach of covenant, (or, debt on demand for — *l.* or, detain of goods and chattels, or, deeds and writings, of the value of — *l.* or, in a plea of *trespass*, or, trespass on the case, to the damage of the said plaintiff of — *l.* as the plea is,) directed to the sheriff of —, and returnable before the lord the king, on — last past, wheresoever his said majesty should then be in *England*, (or, in the *Common Pleas*, before his majesty's justices at *Westminster* aforesaid, on — last past,) and did cause the said writ to be delivered for execution, to the said sheriff of —; and that the said sheriff, by virtue of the said writ, did cause a summons (or attachment) to be issued thereon, and delivered to — his officer in that behalf: at the foot of which summons (or attachment) there was written a notice, to the said defendant, of the tenor, and to the effect following, that is to say: (*here copy the notice verbatim.*) And this deponent further saith, that he did, on the — day of — instant, (or last,) serve the said defendant with the said summons, (or attachment,) by delivering a true copy thereof to the wife (daughter or servant) of the said defendant, at his dwelling house and place of abode, at — in the said county; and at the same time shewed her the said original summons (or attachment.) And this deponent further saith, that he used all means in his power to serve the said defendant personally with the said summons, (or attachment,) having attended for that purpose at his said dwelling house and place of abode, on the said — day of — instant, (or last,) and on three several days

previous thereto, but was not able to meet with the said defendant, on any of those days; and that he this deponent was told by the wife (or daughter, &c.) of the said defendant, on the said respective days, that he the said defendant was from home, and could not be seen. And this deponent further saith that, for the reasons aforesaid, he verily believes the said defendant kept out of the way, to avoid being served with the said summons (or attachment); and that the said defendant hath not appeared thereto.

Sworn, &c. (*Post. Chap. xix. § 6, &c.*)

E. F.

In the Common Pleas.

— term, in the — year of the reign of King *George the Fourth.* — the — day of —*.

(§ 18.)
Rule of court thereon, in *C. P.*
Prac. 113, 14.

B. } Upon reading the affidavit of *E. F.* it is ordered, that a writ of
v. } *distringas* do issue, directed to the sheriff of —, to compel an ap-
D. } pearance by or on behalf of the defendant, pursuant to the act of
parliament in that case made and provided.

On the motion of Serjt. *E. Lawes.*

By the Court.

B. } Upon reading the affidavit of *E. F.* and upon hearing the attornies
v. } or agents on both sides, I do order, that the secondaries do draw up
D. } a rule, that a writ of *distringas* do issue, directed to the sheriff of —,
to compel an appearance by or on behalf of the said defendant, pursuant
to the act of parliament in that case made and provided. Dated the —
day of — 18—.

(§ 19.)
Judge's order
for drawing up
rule, in vacation.
Prac. 113, 14.

George the Fourth, &c. (14.) To the sheriff of — greeting: Put by gages and safe pledges, *C. D.* late of —, that he be before us, on —, wheresoever we shall then be in *England*, to answer to *A. B.* of a plea that he keep with him the covenant, &c. (20.) or that he render to him, &c. (*as in the original writ, to the words "as it is said;"*) and to shew wherefore he was not before us at *Westminster*, on —, as he was summoned; and have there the names of the pledges, and this writ. Witness *Charles Lord Tencterden, &c. (14.)*

(§ 20.)
Pone or attachment, for non-appearance, on original writ in covenant, debt, or delinac, in *K. B.*
Prac. 110.

Kenyon.

The within-named *C. D.* is attached by pledges, *E. F.* and *G. H.* (or, has nothing in my bailiwick, by which he can be attached.)

(§ 21.)
Sheriff's return thereto.

The answer of —, sheriff.

Prac. 110.

George the Fourth, &c. (14.) To the sheriff of — greeting: Put by gages and safe pledges, *C. D.* late of —, that he be before us, on —, wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, &c. (*as in the pone, to the words "as it is said;"*) and whereupon our sheriff of — returned to us, on, &c. (*the return day of pone,*) last past, that the said *C. D.* had nothing in his bailiwick, by which he could be attached: whereas it is testified in our same court before us, that the said *C. D.* hath sufficient in your bailiwick, by which he may be attached;

(§ 22.)
Testatum pone or attachment†, in *K. B.*
Prac. 110.

* In the Common Pleas, the rules are entitled as above, with the court, term, day of the week and month, and names of the parties.

† The proceeding by *pone* or attachment, on an original writ, is now generally disused, in consequence of the statute 7 & 8 Geo. IV. c. 71. § 5.

CHAP. V.

and have there the names of the pledges, and this writ. Witness *Charles Lord Tenterden*, &c. (14.) *Kenyon.*

(§ 23.)
Distingas on
original writ, in
K. B.

Prac. 110, 113,
14.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of —, by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall receive from us another command in that behalf, and that you answer to us for the issues of the same, so that he be before us, on —, wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, for that whereas, &c. (in *case*; or, in *covenant*, of a plea that he keep, &c. or, in *debt*, of a plea that he render, &c. as in the original, in the words “as it is said;”) and to hear judgment thereupon for his many defaults: and have there this writ. Witness, &c. (14.) *Kenyon.*

(§ 24.)
The like, on an
original *quære
clausum fregit*,
in C. P.

Prac. 110, 113,
14.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of —, by all his lands and chattels, &c. (as in last,) so that he be before our justices at *Westminster*, on — next after —, to answer *A. B.* of a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and to hear judgment thereupon for his many defaults: and have there this writ. Witness *Sir William Draper Best*, &c. (15.)

(§ 25.)
Notice to ap-
pear to *distin-
gas*, on stat. 7
& 8 Geo. IV. c.
71. § 5.

Prac. 114.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

Take notice, that I have this day distrained upon your goods and chattels, for the sum of 40*s.* in consequence of your not having appeared by your attorney, in the said court, at the return of a writ of —*, returnable there on the — day of —; and that in default of your appearing to the present writ of *distingas*, at the return thereof, being the — day of —, the said *A. B.* will cause an appearance to be entered for you, and proceed thereon, as if you had yourself appeared by your attorney.

To *C. D.* the above-named defendant.

E. F.

(*Name of sheriff's officer.*)

(§ 26.)
Return of exe-
cution of *dis-
tingas*, and ser-
vice of notice,
on same statute.

Prac. 114.

The within-named *C. D.* is distrained by —, of the value of 40*s.*: And I further certify and return, that at the time of the execution of this writ, I caused a written notice to be served on the said *C. D.* apprizing him of the cause of the distress, and that in default of his appearing to this writ, at the return thereof, being the — day of —, the within-named *A. B.* would cause an appearance to be entered for him, and proceed thereon, as if he had himself appeared by his attorney.

The answer of —, sheriff.

(§ 27.)
The like, where
defendant can-
not be met with.

Prac. 114.

The within-named *C. D.* is distrained, &c. (as above): And I further certify and return, that at the time of the execution of this writ, the said *C. D.* was not found, nor could he be met with, in my bailiwick; wherefore I caused a written notice to be left at his dwelling house (or place of abode), situate at — in my county, being the place where this writ was executed, apprizing him, &c. (as in last.) The answer, &c. (as above.)

* This it seems means the original writ, and might be so called in the notice.

The within-named *C. D.* hath nothing in my bailiwick, by which he can be distrained; nor is he found in the same. The answer, &c. (24.)

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

E. F. of —, officer to the sheriff of —, maketh oath and saith, that he this deponent, as such officer, did on the — day of — instant (or last past), personally serve the above-named defendant, with a summons (or attachment) on an original writ, issued out of his majesty's high court of Chancery, directed to the sheriff of —, and returnable before the lord the king, on —, wheresoever, &c. (or, in the Common Pleas, before his majesty's justices at Westminster, on —,) at the foot of which summons (or attachment) was written a notice to the said defendant, of the tenor and to the effect following, that is to say: (*here copy the notice verbatim.*)

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

E. F.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

E. F. of —, officer to the sheriff of —, maketh oath and saith, that he this deponent, as such officer, did on the — day of — instant (or last past), by virtue of a writ of *distringas*, which appeared to this deponent to be regularly issued out of and under the seal of this honourable court, directed to the sheriff of —, and returnable before the lord the king, on —, wheresoever, &c. (or, in the Common Pleas, before his majesty's justices at Westminster, on — next after —,) and of the said sheriff's warrant upon the said writ, distrain upon the goods and chattels of the above-named defendant, for the sum of 40s. in consequence of his not having appeared by his attorney in the said court, at the return of an original writ, returnable there on the — day of — last past: And this deponent further saith, that at the time of the execution of the said writ of *distringas*, he this deponent, as such officer as aforesaid, served a written notice on the said defendant, of the tenor and to the effect following, that is to say: (*here copy the notice verbatim.*)

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

F. F.

If the defendant cannot be met with, say: And this deponent further saith, that at the time of the execution of the said writ of *distringas*, he this deponent, as such officer as aforesaid, served a written notice on the said defendant, apprizing him of the cause of such distress, and that in default of his appearing to the said last-mentioned writ, at the return thereof, being the — day of —, the above-named plaintiff would cause an appearance to be entered for him, and proceed thereon, as if he had himself appeared by his attorney, by delivering a true copy of the said notice to the wife (or daughter, &c.) of the said defendant, at his dwelling house and usual place of abode, at — in the said county, he the said defendant not being then at home, or to be met with, as he this deponent was informed, and verily believes; and this deponent then and there informed the said wife (or daughter, &c.) of the said defendant, of the true intent and meaning of such *distringas*, levy, and notice as aforesaid.

(§ 28.)

The like, where defendant has no goods, and cannot be met with.

Prac. 114.

(§ 29.)

Affidavit of personal service of summons (or attachment,) to enter common appearance, on same statute.

Prac. 114.

(§ 30.)

The like, of the due execution of *distringas*, &c. on same statute.

Prac. 114.

(§ 31.)

The like, where defendant cannot be met with.

Prac. 114.

TABLE OF TERMS, AND RETURNS.

HILARY TERM.

Returns by *original*.

1. In eight days of Saint Hilary.
2. In fifteen days of Saint Hilary.
3. On the morrow of the Purification.
4. In eight days of the Purification.

Returns by *bill*, and *attachment of privilege*.

1. On — next after eight days of Saint Hilary.
2. On — next after fifteen days of Saint Hilary.
3. On — next after the morrow of the Purification.
4. On — next after eight days of the Purification.

EASTER TERM.

1. In fifteen days of Easter.
2. In three weeks after Easter.
3. In one month after Easter.
4. In five weeks from Easter-day.
5. On the morrow of the Ascension.

1. On — next after fifteen days of Easter.

2. On — next after three weeks from the day of Easter.
3. On — next after one month from the day of Easter.
4. On — next after five weeks from the day of Easter.
5. On — next after the morrow of the Ascension.

TRINITY TERM.

1. On the morrow of the holy Trinity.
2. In eight days of the holy Trinity.
3. In fifteen days of the holy Trinity.
4. In three weeks after the holy Trinity.

1. On — next after the morrow of the holy Trinity.
2. On — next after eight days of the holy Trinity.
3. On — next after fifteen days of the holy Trinity.
4. On — next after three weeks of the holy Trinity.

MICHAELMAS TERM.

1. On the morrow of All Souls.
2. On the morrow of Saint Martin.
3. In eight days of Saint Martin.
4. In fifteen days of Saint Martin.

1. On — next after the morrow of All Souls.
2. On — next after the morrow of Saint Martin.
3. On — next after eight days of Saint Martin.
4. On — next after fifteen days of Saint Martin.

In Chancery.

A. B. plaintiff, &c. (17.)

(§ 33.)

To the right honourable the Master of the Rolls.

Petition to the
Master of the
Rolls, for original writ, returnable in C. P.

The humble petition of *A. B.* plaintiff ;

Sheweth,

Prac. 108. 509.
1171.

That your petitioner, in — term (*or vacation*) last, commenced an action at law, by original writ, against the above-named *C. D.* late of —, in his majesty's court of Common Pleas at *Westminster*, in a plea of trespass on the case, to his damage of —*l.* (*or as the plea is,*) wherein your petitioner hath laid his venue in the county of — ; and judgment hath been obtained in such action, in — term last past, for —*l.* damages, and —*l.* costs, (*according to the fact*) ; whereupon the said defendant hath brought his writ of error, returnable in his majesty's court of King's Bench, on — wheresoever, &c. but no further proceedings have been had thereon.

That your petitioner hath not as yet sued out any original writ to warrant the said judgment ; and he is advised, that it is necessary the same should be sued out, to warrant the said judgment : But the time for applying for the same in the ordinary course being expired, the cursitor for the said county cannot make out the same, without your honour's order for that purpose.

Your petitioner therefore humbly prays your honour, to grant unto him an order, that the cursitor for the said county of — may issue an original writ in this cause, out of his majesty's high court of Chancery, returnable in his said majesty's court of Common Pleas, on —, in — term last.

And your petitioner shall ever pray, &c.

A. B.

— 18—.

(§ 34.)

Be it so ; and let the petitioner pay the defendant his costs in error, in case he shall not, after having had notice of this order, further prosecute his said writ of error ; and hereof give notice forthwith.

Fiat thereon.
Prac. 108.

J. Leach.

— the — day of —, in the — year of the reign of his majesty king *George* the Fourth, 18—.

(§ 35.)
Order thereon.
Prac. 108, 9.
1171.

Between *A. B.* plaintiff, and *C. D.* defendant.

Upon consideration this day had, by the right honourable the Master of the Rolls, of the humble petition of the plaintiff, setting forth, that the petitioner having, in — term (*or vacation*) last past, commenced an action, &c. (*reciting the petition* :) It is thereupon ordered, that the cursitor for the said county of — do issue an original writ in this cause, out of this court, returnable in his majesty's court of Common Pleas, on —, in — term last past : And it is further ordered, that the petitioner pay the defendant his costs in error, in case the defendant shall not, after having had notice of this order, further prosecute his said writ of error ; and hereof notice is to be given forthwith.

(§ 36.)
Petition to the
Master of the
Rolls, for
amending origi-
nal writ, after
amendment of
special *capias*.
Prac. 109. 509.

In Chancery, &c. (27.)

A. B. plaintiff, &c. (17.)

To the right honourable the Master of the Rolls.

The humble petition of *A. B.* plaintiff ;

Sheweth,

That your petitioner, in — term (*or vacation*) last, commenced an action at law, by original writ, against the above-named *C. D.* late of —, in his majesty's court of King's Bench (*or Common Pleas*) at *Westminster*, in a plea of trespass on the case, to his damage of —*l.* (*or as the plea is,*) wherein your petitioner hath laid his venue in the county of — ; but the day on which the cause of action arose is laid by mistake, in the said original writ, on the — day of — 18—, instead of the — day of — in the same year.

That by a rule of his said majesty's court of King's Bench, (*or Common Pleas,*) made in this action, on — next after —, in this present — term, it was ordered by the same court, that the writ of special *capias ad respondendum* in this action should be amended, by altering the day laid therein, from the said — day of — 18—, to the said — day of the same month of —, on payment of costs to be taxed by the master ; which costs have been taxed, in pursuance of the said rule, and paid by your petitioner, and the said writ of special *capias ad respondendum* hath been amended accordingly.

That your petitioner is advised it will be necessary to amend the original writ in this action, in the particular mentioned in the said rule of court, in order that the same may be consonant in form to the said writ of special *capias ad respondendum*, and subsequent proceedings in the said action : But inasmuch as the cursitor for the said county of — cannot amend the same, without your honour's order for that purpose ;

Your petitioner therefore humbly prays your honour, to grant unto him an order, that the cursitor for the said county of — do amend the original writ in this action, by altering the day laid therein, from the said — day of — 18—, to the — day of the same month of —.

And your petitioner shall ever pray, &c.

A. B.

— the — day of —, &c. (27.)

(§ 37.)
Order to amend
original writ,
after amend-
ment of declara-
tion.

Prac. 109.

Upon consideration this day had, by the right honourable the Master of the Rolls, of the humble petition of the plaintiff, setting forth, That the petitioner, in — term (*or vacation*) last, commenced an action at law, by original writ, against the above-named *C. D.* in his majesty's court of King's Bench (*or Common Pleas*) at *Westminster*, in a plea of, &c. (*as in last,*) the venue in which action is laid in the county of — ; and that the petitioner declared in the said action, in — term last : That by an order made in this cause, on the — day of — last, by the right honourable the Lord Chief Justice of his majesty's said court of King's Bench, (*or Common Pleas,*) it was ordered, that the petitioner should be at liberty to amend the declaration in this cause, in the manner therein and hereinafter mentioned, on payment of costs to be taxed by the Master : That the petitioner, in pursuance of the said order, hath taxed

and paid the defendant's costs, and amended the said declaration : That CHAP. V.
the petitioner is advised it will be necessary to amend the original writ in
this action, in the particular in the said order, and hereinafter mentioned,
in order that the same may be consonant in form to the said declaration :
But inasmuch as the cursitor for the said county of —— cannot amend
the same, without an order for that purpose ; it was prayed, and upon
reading the said Chief Justice's order, it is accordingly ordered, that the
cursitor for the said county of —— do amend the original writ in this ac-
tion, by adding averments, &c. (*as in the order to amend,*) rescaling the
said original writ.

CHAP. VI.

PROCEEDINGS *in ACTIONS against PEERS of the REALM,
and MEMBERS of the HOUSE of COMMONS ; and against
CORPORATIONS, and HUNDREDORS.*

(§ 1.)
Præcipe for ori-
ginal writ,
against a peer,
in debt, in K. B.
Prac. 118.

— (to wit.) **COMMAND** the right honourable — Marquis (*or* Earl) of —, (*giving the defendant his proper title,*) late of —, (*having privilege of peerage,*) that justly and without delay he render to *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from him, as it is said ; and unless, &c.

Returnable before the lord the king, &c. (20.)

(§ 2.)
The like, in case,
in K. B.

Prac. 118.

— (to wit.) If *A. B.* make you secure, &c. then summon by good summoners, the right honourable — Marquis (*or* Earl) &c. (*as in last,*) having privilege of peerage, that he be before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, (*or, in the Common Pleas*, before our justices at *Westminster*, on —,) to shew, for that whereas, &c. (*setting out the cause of action, as in a declaration ; but taking care, in assigning the breach in assumpsit, not to charge the defendant with contriving and fraudulently intending, craftily and subtilly to deceive and defraud the plaintiff :*) to the damage of the said *A. B.* of —*l.* as it is said, &c.

(§ 3.)
The like,
against a mem-
ber of the
House of Com-
mons.

Prac. 118.

(§ 3. a.)
Testatum sum-
mons, against a
peer, in debt.

Prac. 118.

— (to wit.) If *A. B.* make you secure, &c. then put by gages and safe pledges, *C. D.* late of — Esquire, (*having privilege of parliament,*) that he be, &c. (*as in the last.*)

George the Fourth, &c. (14.) To the sheriff of — greeting : Summon by good summoners, the right honourable — Marquis (*or* Earl) of —, (*having privilege of peerage,*) that he be before us on —, wheresoever we shall then be in *England*, (*or, in the Common Pleas*, before our justices at *Westminster*, on —,) to answer *A. B.* of a plea that he render to the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from him, as it is said ; and whereupon our sheriff of —, at a certain day now past, returned to us, (*or, in C. P.* to our justices at *Westminster*,) that the said Marquis (*or* Earl, *or* the said *C. D.*) had nothing in his bailiwick, by which he could be summoned ; whereas it is sufficiently testified in our same court before us, (*or, in C. P.* before our said justices at *Westminster*,) that the said Marquis (*or* Earl, *or* the said *C. D.*) hath sufficient in your bailiwick, by which he may be summoned ; and have there the names of the summoners, and this writ. Witness *Charles Lord Tenterden*, (*or, in C. P.*

Sir William Draper Best knight,) at Westminster, the — day of —, CHAP. VI.
in the — year of our reign.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you that you distrain the right honourable — Marquis (or Earl) &c. having privilege of peerage, by all his lands and chattels, &c. (as before, p. 24.)

(§ 4.)
Distringas,
against a peer.
Prac. 119.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, as before (or, as oftentimes) we have commanded you, that you distrain, &c. (as in the last.)

(§ 5.)
Alias, or *pluries*
distringas.
Prac. 111, 119.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain, &c. (as in the *distringas*, altering the return, to the words "many defaults;") and whereupon our sheriff of —, at a certain day now past, returned to us, (or, in C. P. to our justices at Westminster,) that the said Marquis (or Earl) had nothing in his bailiwick, by which he could be distrained; whereas it is testified in our same court before us, (or, in C. P. before our said justices at Westminster,) that the said Marquis (or Earl) hath sufficient lands and chattels in your bailiwick, by which he may be distrained; and have there this writ. Witness, &c. (30, 31.)

(§ 6.)
Testatum *distringas*.
Prac. 111, 119.

— on (or next after) —, &c. (11.)

B. } Upon reading the several writs of *distringas* issued in this cause,
v. } it is ordered, that the defendant, upon notice of this rule to be
D. } given to him, shall, on — next after —, shew cause, why the issues returned upon the said several writs of *distringas* should not be sold, and the monies arising from the sale thereof should not be forthwith brought into court, and why it should not be referred to the master, to tax the plaintiff his costs, occasioned by his issuing out the said several writs; and why the costs when taxed, should not be paid out of the monies so brought into court, and why the surplus of the said monies, after payment of the said costs, should not be retained in court, until the purpose of the said writs be answered. Upon the motion of Mr. George Paisley.

(§ 7.)
Rule nisi for
sale of issues,
in K. B.
Prac. 111, 119.

By the Court.

In the Common Pleas, the rule is "to shew cause, why it should not be referred to one of the prothonotaries, to tax the plaintiff's costs of, and occasioned by the writs of *distringas*, and *alias distringas*, issued in this cause, to the sheriff of —, and also the costs of this application to the court; and why the said sheriff should not be directed to sell so much of the issues levied by him, by virtue of the said writs, as will be sufficient to answer the said costs, when taxed; and why the said sheriff should not, with the monies arising from such sale, pay to the plaintiff or his attorney such costs, and return the residue of the said issues to the defendant, pursuant to the act of parliament in that behalf made and provided."

(§ 8.)
The like, in
C. P.
Prac. 111, 119.

In the Common Pleas.

A. B. plaintiff, &c. (17.)

E. F. of — gentleman, attorney for the plaintiff in the above cause, maketh oath and saith, that the plaintiff's cause of action is for goods sold and delivered by the said plaintiff to the said defendant (or as the case may be): and that the said defendant was duly summoned by the sheriff of

(§ 9.)
Affidavit in
support of last
rule.
Prac. 111, 119.

CHAP. VI.

—, on an original writ issuing out of his majesty's high court of Chancery, returnable on — last past, to appear in this honourable court, at the suit of the said plaintiff, as appears to this deponent by the return on the back of the said writ, made by the said sheriff of —; and that the said defendant not appearing to the same, within the time limited by the rules of this honourable court, a *distringas* against the defendant's goods issued, on which the said sheriff of — caused to be levied and returned 40s. issues; and that the said defendant not appearing to such *distringas*, an *alias distringas* issued, on the — day of — instant, returnable on — next after —, on which the said sheriff, by virtue of a rule of this honourable court, levied and returned issues to the amount of —*l.*

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

E. F.

(§ 10.)
Note of appearance for a peer, or member of the House of Commons.

— (to wit.) Appearance for the right honourable — Marquis (*or* Earl) &c. having privilege of peerage, (*or*, *C. D.* Esquire, having privilege of parliament,) at the suit of *A. B.* to a writ of *distringas*, returnable on —, wheresoever, &c.

Prac. 121. (*a.*)

—18—.

(§ 11.)
Beginning of declaration against a peer, or member of the House of Commons, by original.

In the King's Bench, (*or* Common Pleas.)

— term, in the — year of the reign of King *George* the Fourth.

— (to wit.) The right honourable — Marquis (*or* Earl) &c. having privilege of peerage, (*or*, *C. D.* Esquire, having privilege of parliament,) was summoned (*or* attached *) to answer *A. B.* of a plea of trespass on the case, &c. (*or as the plea is*); and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, &c. (30.)

Prac. 121. (*a.*)

(§ 12.)
Beginning and conclusion of bill against a member of the House of Commons, in K. B.

Prac. 120. 433.

Ellenborough.

— term, &c. (*as in the last.*)

— (to wit.) *A. B.* complains of *C. D.* Esquire, (having privilege of parliament,) of a plea of trespass on the case, &c. (*or as the plea is*): For that whereas, &c. (*omitting the charge of fraud and deceit, in the breach in assumpsit, and concluding as follows:*)

And the said *A. B.* prays the process of our lord the king, to be made to him thereupon against the said *C. D.* according to the form of the statute in such case made and provided; and it is granted to him, &c.

Pledges to prosecute, { *John Doe,*
and
Richard Roe.

(§ 13.)
The like, in C. P.

Prac. 120. 433.

In the Common Pleas.

— term, &c. (*as above.*)

To the justices of our lord the king of the bench.

— (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* Esquire, (having privilege of parliament,) of a plea, &c. (*as in the last, with a similar conclusion.*)

In the Exchequer of Pleas.

— term, &c. (32.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of his majesty's Exchequer, on the — day of — in this same term, by *Kenrick Collett* his attorney, and complains by bill against *C. D. Esquire*, (having privilege of parliament,) of a plea, &c. (as in the last but one, with a similar conclusion.)

Ellenborough.

— term, &c. (32.)

— (to wit.) *A. B.* complains of *C. D. E. F.* and *G. H.* the said *C. D.* having privilege of parliament, and the said *E. F.* and *G. H.* being in the custody of the marshal of the *Marshalsea* of our lord the now king, before the king himself, of a plea of trespass on the case, &c. (or as the plea is): For that whereas, &c. (to the end of the bill, concluding as before.)

— (to wit.) Writ of summons for *A. B.* against *C. D. Esquire*, (having privilege of parliament.) Case, for — upon promises, (or as the action is,) returnable on — next after —. *E. F. attorney.*

— 18—.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you summon *C. D. Esquire*, (having privilege of parliament,) that he be before us at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (or as the plea is,) as he shall be able reasonably to shew, that thereof the said *C. D.* ought to answer; and have there then this writ. Witness *Charles Lord Tenterden, &c. (14.) Ellenborough.*

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you summon *C. D. Esquire* (having privilege of parliament,) that he be before our justices at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass on the case, (or as the plea is:) For that whereas, &c. (as in the bill, throughout:) to the damage of the said *A. B.* of — *l.* as it is said; and have there then this writ. Witness *Sir William Draper Best knight, &c. (15.)*

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and summon *C. D. Esquire*, (having privilege of parliament,) that he be before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass on the case, (or as the plea is,) to the damage of the said *A. B.* of —, whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he shall be able reasonably to shew that thereof the said *C. D.* ought to answer; and have there then this writ. Witness *Sir William Alexander knight, at Westminster,* the — day of —, in the — year of our reign.

*E. F. Solicitor.**

*Richards.**

*Collett.**

*Rose.**

(§ 14.)

The like, in the Exchequer.

Prac. 120. 433.

(§ 15.)

Beginning of bill against several defendants, one of them being a member, and the others in custody of the marshal, in K. B.

Prac. 120. 433.

(§ 16.)

Præcipe for writ of summons, in K. B.

Prac. 120.

(§ 17.)

Writ of summons, in K. B.

Prac. 120.

(§ 18.)

The like, in C. P.

Prac. 120.

(§ 19.)

The like, in the Exchequer.

Prac. 120.

* When an attorney of the Exchequer acts as principal, his name only is written, opposite to that of the clerk of the pleas, at the foot of *signable* process, as attorney for the plaintiff;

(§ 20.)
Testatum sum-
mons, in K. B.
or C. P.
Prac. 119, 20.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you summon, &c. (as in the writ of summons, to the word “answer,” and then as follows:) And whereupon our sheriff of —, at a certain day now past, returned to us (*or, in C. P. to our justices*) at *Westminster*, that the said *C. D.* had nothing in his bailiwick, by which he could be summoned; whereas it is testified in our said court before us, (*or, in our said court, omitting “before us” in C. P.*) that the said *C. D.* hath sufficient in your bailiwick, whereby he may be summoned; and have there then this writ. Witness, &c. (30, 31.)

(§ 21.)
Præcipe for dis-
tringas, in K. B.
or C. P.
Prac. 120.

— (to wit.) *Distringas* for *A. B.* against *C. D.* Esquire, (having privilege of parliament.) Case, for — *l.* upon promises, (*or as the action is,*) returnable on — next after —. *E. F.* attorney.
 — 18—.

(§ 22.)
Distringas, in
K. B. or C. P.
Prac. 120.

*George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain C. D. Esquire, (having privilege of parliament,) by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that he be before us (or, in C. P. before our justices) at Westminster, on — next after —, to answer A. B. in a plea of trespass on the case upon promises, (or as the plea is; and, in the Common Pleas, it is usual to copy the bill, as in the writ of summons, § 18.) to the damage of the said A. B. of — *l.* (or as the plea is,) and to hear judgment thereupon for his many defaults; and have there then this writ. Witness, &c. (30, 31.)*

(§ 23.)
The like, in the
Exchequer.
Prac. 120.

*George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and distrain C. D. Esquire, (having privilege of parliament,) by all his lands and chattels, &c. (as in the last, to “issues thereof,”) so that he be before the barons of our Exchequer at Westminster, on — next coming, to answer A. B. our debtor, of a plea of trespass on the case, (or as the plea is,) to the damage of the said A. B. of — *l.* whereby, &c. (33.) and have there then this writ. Witness Sir William Alexander, &c. (33.)*

E. F. Solicitor, &c. (*ante*, p. 33. § 19.)

(§ 24.)
Alias, or pluries
distringas.
Prac. 120.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, as before, (or, as oftentimes) we have commanded you, that you distrain, &c. (as in the last but one; or, in the Exchequer, that you omit not, &c. as in the last.)

but when he is only an agent, the name of the solicitor for whom he acts is first written, and then his own name, and afterwards that of the clerk of the pleas. When a clerk in court acts as principal, his name is written thus: “*G. H.* clerk in court;” and then the initial of the name of the attorney in whose division he is; but when he is only an agent, as in the above and other forms in this chapter, the name of the solicitor is first written, and then his own name, without stating him to be a clerk in court; afterwards, the initial of the attorney’s name; and lastly, the name of the clerk of the pleas. If the process be not *signable*, the attorney’s name or initial is indorsed thereon, instead of being written at the foot of it. *Prac. 158.*

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain, &c. (as in the distringas, altering the return, to the words “many defaults,” and then as follows): And whereupon our sheriff of —, at a certain day now past, returned to us (or, in C. P. to our justices) at Westminster, that the said C. D. had nothing in his bailiwick, by which he could be distrained: whereas it is testified in our said court before us, (or, in our said court, omitting “before us,” in C. P.) that the said C. D. hath sufficient lands and chattels in your bailiwick, by which he may be distrained; and have there then this writ. Witness, &c. (30, 31.)

(§ 25.)
Testatum distringas, in K. B. or C. P.
Prac. 120.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not, &c. (as before p. 33.) to “whereby, &c.” (id.) And whereupon our sheriff of —, at a certain day now past, returned to the barons of our Exchequer at Westminster, that the said C. D. had nothing in his bailiwick, whereby he could be distrained; whereas it is testified in our said court, before the barons of our said Exchequer, that the said C. D. hath sufficient lands and chattels in your bailiwick, whereby he may be distrained; and have there then this writ. Witness, &c. (33.)

(§ 26.)
The like, in the Exchequer.
Prac. 120.

The declaration against a member of the House of Commons, in the King's Bench and Exchequer, is nothing more than a copy of the bill, omitting the prayer of process at the end.

In the Common Pleas.

— term, &c. (32.)

(§ 27.)
Beginning of declaration against a member of the House of Commons, after appearance, in C. P.
Prac. 121. (a.)

— (to wit.) Be it remembered, that on — next after —, (*the day of filing the bill.*) in this same term, *A. B.* came into his majesty's court of the Bench here, by *E. F.* his attorney, and exhibited to the justices of the same court here, his certain bill against *C. D.* Esquire, (having privilege of parliament,) of a plea of trespass on the case, &c. (*or as the plea is*); and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; the tenor of which said bill follows in these words, that is to say: To the justices of our lord the king of the bench. — (to wit.) *A. B.* by *E. F.* his attorney, complains, &c. (*copy the bill verbatim, leaving out the pledges.*)

As yet of — term, in the — year of the reign of king *George the Fourth.* Witness *Charles Lord Tenterden.* *Ellenborough.*

(§ 28.)
Entry of bill and process, against a member of the House of Commons, to save the statute, in K. B.
Prac. 27. 121. (a.) 162.

— (to wit.) Be it remembered, that on — next after —, in this same term, before our lord the king at Westminster, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king, before the king himself now here, his certain bill against *C. D.* Esquire, (having privilege of parliament,) of a plea of trespass on the case, &c. (*or as the plea is*); and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, (that is to say:) — (to wit.) *A. B.* complains of *C. D.* Esquire, &c. (*here copy the bill, to the words “and therefore he brings his suit, &c.” and then proceed as follows.*) And the said *A. B.* prays the process of our said

CHAP. VI.

lord the king, to be made to him thereupon against the said *C. D.* according to the form of the statute in such case made and provided; and it is granted to him, &c. whereby the sheriff of — is commanded, that he cause to be summoned the said *C. D.* having privilege of parliament, that he be before our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of —*l.* (or as the plea is;) as he shall be able reasonably to shew, that thereof the said *C. D.* ought to answer; and that the said sheriff have there then the writ of our said lord the king, to him thereupon directed: the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of —, now here returns, that the said *C. D.* hath not any thing in his bailiwick, whereby he can be summoned; and the said *C. D.* doth not come.

(§ 29.)
Note of appearance for a corporation.

Prac. 121. (l.)

— (to wit.) Appearance for the Mayor, (&c.) at the suit of *A. B.* to an original, returnable on —. G. H. Attorney.

In the King's Bench, (or Common Pleas.)

(§ 30.)
Beginning of declaration, against a corporation.

Prac. 121. (l.)

— term, &c. (32.)

— (to wit.) The Mayor, (&c.) were summoned (or attached) to answer *A. B.* of a plea of trespass on the case, &c. (or as the plea is;) and thereupon the said *A. B.* by *E. F.* his attorney, complains, that whereas the said Mayor, &c.

(§ 31.)
The like, against hundredors, on the statutes 7 & 8 Geo. IV. c. 31.

Prac. 122.

In the King's Bench, (or Common Pleas.)

— term, &c. (32.)

— (to wit.) The men inhabiting within the hundred of —, in the county of —, were attached to answer *A. B.* of a plea of trespass and contempt, against the form of the statute*, &c.; and thereupon the said *A. B.* by *E. F.* his attorney, complains, that whereas, &c.

* See R. M. 1654. § 12. K. B. § 16. C. P.

CHAP. VII.

CAPIAS *by* ORIGINAL, *and* PROCESS *of* OUTLAWRY, *in the*
KING'S BENCH, *and* COMMON PLEAS.

GEORGE the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* late of —, if he be found in your bailiwick, and him safely keep, so that you may have his body before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on —,) to answer *A. B.* in a plea, for that whereas, &c. (*in case*; or, *in covenant*, of a plea that he keep, &c. or, *in debt*, of a plea that he render, &c. *as in the original*, to the words, “as it is said”;) and have there this writ. Witness *Charles* Lord *Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight,) &c. (30, 31.)

C. D. of — *.

Bail by affidavit for —l.

E. F. Temple,

Plaintiff's attorney, (or agent.)

— 18—.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* late of —, if he shall be found in your bailiwick, and him safely keep, &c. (*as in* § 1.) to answer, together with *E. F.* late of —, (having privilege of parliament,) to *A. B.* in a plea, &c. (*as in* § 1. *with a similar indorsement*.)

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, as *before* (or, as *oftentimes*) we have commanded you, that you take, &c. (*as in* § 1.)

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* late of &c. (*as in the capias*, *altering the return*, to the words, “as it is said”;) and whereupon our sheriff of — returned to us, (or, in *C. P.* to our justices at *Westminster*;) at a certain day now past, that the said *C. D.* was not found in his bailiwick; whereas it is *testified* in our same court before us, (or, in our same court, in *C. P.* *omitting* “before us,”) that the said *C. D.* lurks and wanders up and down in your county; and have there this writ. Witness &c. (*as above*.)

(§ 1.)
Capias ad respondendum.
Prac. 128.

(§ 2.)
Indorsement thereon.
Prac. 158, 164.

(§ 2. a.)
Capias in joint action, where one defendant hath privilege of parliament.
Prac. 128.

(§ 3.)
Alias, or *pluries capias*.
Prac. 128.

(§ 4.)
Testatum capias.
Prac. 128.

* The place of abode and addition of the party against whom the writ is issued, or such other description of him as the attorney or agent may be able to give, is required to be indorsed upon all bailable mesne process, and every writ of attachment, in the King's Bench, by rule of *H. 2 & 3 Geo. IV. 5 Barn. & Ald. 560, 2 Chit. Rep. 377. 1 Dowl. & Ryd. 471.*

(§ 5.)
The like, into
county palatine.
Prac. 129.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, or his deputy there, (or, in *Chester*, "to our chamberlain of our county palatine of *Chester*, or his deputy there;" or, in *Durham*, "to the reverend Father in God —, by divine permission, Lord Bishop of *Durham*, or to his chancellor there,") greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and to be directed to the sheriff of our said county palatine, you command the said sheriff, (in *Lancashire*, or *Cheshire*; or, if in *Durham*, "that by our writ, under the seal of your bishoprick to be duly made, and to be directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,") that he take *C. D.* late of, &c. (as in the *capias*, altering the return, to the words "as it is said:") Whereupon our sheriff of — returned to us, (or, in *C. P.*, to our justices at *Westminster*,) at a certain day now past, that the said *C. D.* was not found in his bailiwick; whereas it is sufficiently testified in our same court before us, (or, "in our same court," in *C. P.* omitting, "before us,") that the said *C. D.* lurks and wanders up and down in our said county palatine; (or, in *Durham*, "in your said bishoprick";) and have there this writ. Witness, &c. (30, 31.)

(§ 6.)
Non omittas capi-
as.
Prac. 128.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty of the bailiff of the hundred of — in your county, but that you take *C. D.* late of —, if he be found in your bailiwick, and him safely keep, so that you have his body before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on —,) to answer *A. B.* in a plea, for that whereas, &c. (as in the previous process;) and have there this writ. Witness, &c. (30, 31.)

(§ 7.)
Writ of sum-
mons *ad sequen-*
dum simul, in
an action by
executors.
Prac. 129.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you summon, by good summoners, *E. F.* late of — in your county —, which said *E. F.* together with *A. B.* are executors of the last will and testament of *G. H.* deceased, that he be before us on —, wheresoever we shall then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on —,) to prosecute, if he will, together with the said *A. B.* a certain plea of trespass on the case upon promises, (or as the plea is,) against *C. D.* late of —, to the damage of the said *A. B.* and *E. F.* as executors as aforesaid, of — *l.* as it is said; and have there the summoners, and this writ. Witness, &c. (30, 31.)

(§ 8.)
Entry of sum-
mons and se-
verance.
Prac. 129.

As yet of — term, &c. (35.)

— (to wit.) The sheriff was commanded, that he should take *C. D.* late of —, and him safely keep, so that he might have his body before the lord the king, on — wheresoever, &c. (or, in *C. P.* before the justices here, on —,) to answer *A. B.* and *E. F.* executors, &c. (as in last,) in a plea of trespass on the case upon promises, (or as the plea is,) to the damage of the said *A. B.* and *E. F.* as executors as aforesaid, of — *l.* as it was said: And now here, come as well the said *A. B.* by — his attorney, as the said *C. D.* by — his attorney; and the said *E. F.* (although solemnly called on the fourth day,) doth not come:

Therefore let the said *E. F.* be summoned, that he be before the lord the king, on —, wheresoever, &c. (*or, in C. P.* before the justices here, on —,) to prosecute, if he will, together with the said *A. B.* the plea aforesaid, against the said *C. D.*; the same day is given to the said *A. B.* and *C. D.* at the same place. At which day, before the said lord the king at *Westminster*, (*or, in C. P.* before the justices here,) come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *E. F.* (although solemnly called on the fourth day,) doth not come: And the sheriff, to wit, — sheriff of — aforesaid, now here returns, that he hath summoned the said *E. F.* &c. and that the summoners of the said *E. F.* are *I. K.* and *L. M.* Therefore it is considered, that the said *A. B.* do prosecute alone, and without the said *E. F.* the plea aforesaid, against the said *C. D.* &c.

* *George the Fourth, &c.* (14.) To the sheriff of — greeting: We command you, that you cause *C. D.* late of —, to be demanded from county court to county court, (*or, if in London*, from husting to husting,) until, according to the law and custom of *England*, he be outlawed, if he do not appear; and if he do appear, then that you take him, and cause him to be safely kept, so that you may have his body before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* before our justices at *Westminster*, on —,) to answer *A. B.* of a plea, &c. (*as in the previous process, to the words "as it is said";*) and whereupon you returned to us, (*or, in C. P.* to our said justices at *Westminster*,) on &c. (*the return of the pluries*,) last past, that the said *C. D.* was not found in your bailiwick; and have there this writ. Witness *Charles Lord Tenterden*, &c. (14.)

(§ 9.)
Exigi facias.
Prac. 132.

By virtue of this writ to me directed, at my county court held at —, in and for the county of —, on — the — day of —, (*or, if in London*, "at the husting of pleas of land, holden in the *Guildhall* of the city of *London*, on — next after —,") in the year within written, the within-named *C. D.* was a first time demanded, and did not appear: And at my county court, held at — aforesaid, on — the — day of — in the year aforesaid, (*or, at the husting, &c.*) the said *C. D.* was a second time demanded, and did not appear: And at my county court, held at — aforesaid, on — the — day of — in the year aforesaid, (*or, at the husting, &c.*) the said *C. D.* was a third time demanded, and did not appear: And at my county court, held at — aforesaid, on — the — day of — in the year aforesaid, (*or, at the husting, &c.*) the said *C. D.* was a fourth time demanded, and did not appear: And at my county court, held at — aforesaid, on — the — day of — in the year aforesaid, (*or, at the husting, &c.*) the said *C. D.* was a fifth

(§ 10.)
Return thereto.
Prac. 132. 135.

* The process of outlawry, which follows, is confined to the King's Bench and Common Pleas; as the defendant cannot be outlawed in the Exchequer, that court having no jurisdiction by original writ.

CHAP. VII. time demanded, and did not appear: Therefore, by the judgment of — Esquire and — Esquire coroners of our sovereign lord the king, for the county aforesaid, the said *C. D.* according to the law and custom of *England*, is outlawed. The answer of —, sheriff.

If all the county courts, or hustings, are not holden in the time of the same sheriff, the return is as follows:

By virtue of this writ to me directed, &c. (*stating the county courts, or hustings, at which the defendant was demanded, in the time of the preceding sheriff, and concluding his return with "The answer of — sheriff;" then proceed, on a new line, as follows:*)

This writ, as above indorsed, was delivered to me the under-named present sheriff, (*or, us the under-named present sheriffs,*) by the above-named late sheriff, at his going out of office.

At my county court, &c. (*stating the county courts, or hustings, at which the defendant was demanded, in the time of the succeeding sheriff, and concluding his return thus:*) The answer, &c. (*as above.*)

(§ 11.)
Allocatur exi-
gent.

Prac. 132.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that allowing those — county courts, (*or, if in London, those — hustings,*) at which *C. D.* late of — was demanded, and did not appear, as you returned to us, (*or, in C. P. to our justices at Westminster,*) on &c. (*the return of the exigent,*) last past, you cause the said *C. D.* to be further demanded at your next county court, (*or husting, if only one return is wanting, or if more than one, "from county court to county court," or "from husting to husting,"*) until, according to the law and custom of *England*, he be outlawed, if he do not appear, &c. (*as in the exigent, altering the return, to the words, "as it is said";*) and have there this writ. Witness, &c. (30, 31.; *making the teste on the return of the exigent, if in term; if not, the quarto die post.*)

(§ 12.)
Writ of procla-
mation.

Prac. 132, 3.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, that you should cause *C. D.* late of —, to be demanded from county court to county court, (*or, if in London, from husting to husting,*) until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that you should take him, and cause him to be safely kept, so that you might have his body before us, on — wheresoever we should then be in *England*, (*or, in C. P. before our justices at Westminster, on —,*) to answer *A. B.* of a plea, &c. (*as in the exigent, to the words, "as it is said:"*) Therefore we command you, that in pursuance of the statute made in the thirty first year of the reign of the Lady *Elizabeth*, late Queen of *England*, you cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute; one of which proclamations shall be made at or near the most usual door of the church of the parish where the said *C. D.* is dwelling, that he render himself unto you, so that you may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, (*or, in C. P. before our justices at Westminster,*) at the aforesaid time, to answer to the said *A. B.* of the plea aforesaid; and have there this writ. Witness, &c. (30, 31.)

George the Fourth, &c. (14.) To the Reverend Father in God — by divine permission Lord Bishop of *Durham*, or to his chancellor there, greeting: Whereas, by our writ, we lately commanded our sheriffs of *London*, that they should cause *C. D.* late of —, to be demanded from husting to husting, until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that they should take him, and keep him safely, so that they might have his body before us, on —, wheresoever we should then be in *England*, to answer *A. B.* of a plea, &c. (*as in the exigent, to the words, "as it is said":*) Therefore we command you, that by our writ, under the seal of your bishoprick to be duly made, and to be directed to the sheriff of the county of *Durham*, you command the said sheriff, that in pursuance of the statute, &c. (*as in the last, to the word, "dwelling",*) that he render himself to the sheriff of the said county of *Durham*, so that the said sheriff may have his body before us, at the aforesaid time, &c. (*as in last, to the end.*)

(§ 12. b.)
The like, to
county palatine
of *Durham*.
Prac. 132, 3.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by our writ, we lately commanded our sheriff of —, that he should cause *C. D.* late of —, to be demanded from county court to county court, (*or, if in London, from husting to husting,*) until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that he should take him, and cause him to be safely kept, so that he might have his body before us, on — wheresoever we should then be in *England*, (*or, in C. P. before our justices at Westminster, on —,*) to answer to *A. B.* of a plea, &c. (*as in the exigent, to the words "as it is said":*) Therefore we command you, that in pursuance of the statute made in the thirty first year of the reign of the Lady *Elizabeth*, late Queen of *England*, you cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute; one of which proclamations shall be made at or near the most usual door of the church of the parish where the said *C. D.* is dwelling, that he render himself to our sheriff of —, so that he may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, (*or, in C. P. before our justices at Westminster, at the aforesaid time,*) to answer to the said *A. B.* of the plea aforesaid; and have there this writ. Witness, &c. (30, 31.)

(§ 13.)
Writ of foreign
proclamation.
Prac. 133.

By virtue of the within writ to me directed, I caused the within-named *C. D.* to be proclaimed three several days, according to the effect of the within-mentioned statute, as it is within commanded me.

(§ 14.)
Return to writ
of proclamation.
Prac. 133.

The answer, &c. (40.)

(*Or, more special, thus:*) By virtue of the within writ to me directed, at my county court held at —, in and for the county of —, on — the — day of —, (*or, if in London, "at the husting of pleas of land, holden in the Guildhall of the city of London, on — next after —,"*) in the year within-written, I caused the said *C. D.* to be proclaimed a first time: And at the general Quarter Sessions of the peace, holden at — aforesaid, on — the — day of — in the year aforesaid, I caused the said *C. D.* to be proclaimed a second time: And at the

(§ 15.)
The like, an-
other way.
Prac. 133.

CHAP. VII. most usual door of the church of the parish of —, being the parish where the said *C. D.* is dwelling, on *Sunday* the — day of — in the year aforesaid, immediately after divine service, one month at the least before the within-named *C. D.* was demanded a fifth time, I caused the said *C. D.* to be proclaimed a third time, that he should render himself unto me, (or, if a foreign proclamation, “unto the sheriff of —,”) as within it is commanded me. The answer, &c. (40.)

(§ 16.)
*Supersedeas to
the exigent, quia
improvidē, &c.*
Prac. 134.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, that you should cause *C. D.* late of —, to be demanded from county court to county court, (or, if in London, from husting to husting,) until, according to the law and custom of England, he should be outlawed, if he did not appear; and if he did appear, then that you should take him, and cause him to be safely kept, so that you might have his body before us, on — wheresoever we should then be in England, (or, in *C. P.* before our justices at *Westminster*, on —,) to answer to *A. B.* of a plea, &c. (as in the exigent, to the words, “as it is said”:) But because the said *C. D.* before the issuing (or return) of our said writ of *exigent*, appeared in our court before us, (or, in *C. P.* in our court, before our justices aforesaid,) by — his attorney, and afterwards offered himself to answer the said *A. B.* of the plea aforesaid, so that our said writ did not duly issue thereupon against the said *C. D.*; therefore we command you, that you altogether cease any further demanding the said *C. D.* or outlawing, taking, or any way molesting him, on that occasion; and have there this writ. Witness, &c. (30, 31.)

(§ 17.)
Return to the
exigent there-
upon.

Prac. 134.

(§ 18.)
General *capias*
utlagatum.

Prac. 135.

I have altogether ceased from executing this writ, having received his majesty's writ of *supersedeas* for that purpose. The answer, &c. (40.)

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty of your county, but that you take *C. D.* late of —, being outlawed in your said county, (or, in the county where the outlawry was,) on — the — day of — (or, in London, on — next after —) last past, at the suit of *A. B.* of a plea of trespass on the case, (or as the plea is; and if the writ issue into a different county from that in which the defendant was outlawed, say, “as our sheriff of — returned to us (or, in *C. P.* to our justices) at *Westminster*, at a certain day now past,”) if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in England, (or, in *C. P.* before our said justices at *Westminster*, on —,) to do and receive what our court before us (or, in *C. P.* our said justices) shall consider of him in this behalf: and have there this writ. Witness, &c. (30, 31.)

(§ 19.)
The like, to a
county palatine.
Prac. 135.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you cause the said sheriff to be commanded, that he do not omit by reason of any liberty of his county, but that he take *C. D.* late of —, being outlawed, &c. (as in last,) if he shall be found in his bailiwick, and him safely keep, so that

he may have his body before us, on ——— wheresoever we shall then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on ———,) to do and receive what our court before us (or, in *C. P.* our said justices) shall consider of him in this behalf; and have there this writ. Witness, &c. (30, 31.)

George the Fourth, &c. (14.) To the sheriff of ——— greeting: We command you, that you do not omit by reason of any liberty of your county, but by the oath of good and lawful men of your said county, you diligently inquire what goods and chattels, lands and tenements, *C. D.* late of ——— hath, or had in your bailiwick, the ——— day of ——— last past, or at any time afterwards, on which day he was outlawed in your county, (or, in the county where the outlawry was,) at the suit of *A. B.* in a plea of trespass on the case, (or as the plea is,) as you have lately returned to us, (or, in *C. P.* to our justices at *Westminster*; and if the writ issue into a different county from that in which the defendant was outlawed, say, “as our sheriff of ——— returned to us (or, in *C. P.* to our justices) at *Westminster*, at a certain day now past,”) and by their oath cause the same to be extended and appraised, according to the true value thereof; and what you find by that inquisition, take into your hands, and cause to be safely kept, so that you answer to us for the true value and issues thereof; and having so extended and appraised the same, what you shall have done thereupon, make known to us, on ——— wheresoever we shall then be in *England*, (or, in *C. P.* to our justices aforesaid, on ———,) distinctly and plainly, under your seal, and the seals of those by whose oath you shall have made that extent and appraisement. And for that the said *C. D.* so being outlawed, conceals himself, and runs up and down in your county, in contempt of us, and in prejudice of our crown, as we are informed: We command you, that you take the said *C. D.* wheresoever he shall happen to be found in your bailiwick, as well within liberties as without, and keep him safely, so that you may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, (or, in *C. P.* before our said justices at *Westminster*, at the aforesaid time,) to do and receive what our said court before us (or, in *C. P.* our said justices) shall consider of him in this behalf; and have there this writ. Witness, &c. (30, 31.)

The execution of this writ appears in a certain inquisition, to this writ annexed.

—— (to wit.) An inquisition indented, taken at ——— in the county of ———, on the ——— day of ——— in the ——— year of the reign of our sovereign lord George the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before me ———, sheriff of the said county, by virtue of the king's writ to me directed, and to this inquisition annexed, upon the oath of *E. F. G. H.* &c. (setting out the names of all the jurors,) honest and lawful men of my bailiwick, who, being sworn and charged to inquire of all such matters and things as in the said writ are mentioned and contained, on their oath say, that *C. D.* in the said writ to this inquisition annexed mentioned, on ———, on which day he was outlawed in the said county, (or, in the county of ———, or, in *London*, at the suit of *A. B.* in a plea of trespass

CHAP. VII.

(§ 20.)
Special capias
utlagatum.

Prac. 137.

(§ 21.)
Return thereto.

Prac. 137.

(§ 22.)
Inquisition.

Prac. 137.

CHAP. VII. on the case, (*or as the plea is,*) whereof he is convicted, was and yet is seised in his demesne as of fee, (*or, for the term of his life,*) of and in one messuage, and one close of pasture, with the appurtenances, called or known by the name of —, situate lying and being in the parish of — in the county aforesaid, containing by estimation — acres of land, and now in the tenure or occupation of —, of the clear yearly value of —*l.* in all issues, beyond reprises; and also of and in one other close of pasture, &c. (*describing the different parcels, as above.*) All and singular which said premises with the appurtenances, above specified, I the said sheriff, by virtue of the said writ, on the said day of taking this inquisition, have taken and caused to be seized into the hands of our said lord the now king, as by the said writ I am commanded: And the jurors aforesaid, upon their oath aforesaid, further say, that the said *C. D.* at the time of the outlawry aforesaid, or at any time afterwards, had no other or more lands or tenements, nor hath he any goods or chattels in my bailiwick, which can be seized or taken into his majesty's hands, by virtue of the said writ, to the knowledge of the jurors aforesaid. In witness whereof, as well I the said sheriff, as the jurors aforesaid, have to this inquisition set our seals, the day and year, and at the place first above-mentioned.

*If the defendant has goods, say, "that the said C. D. on the said —, was and yet is possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and set forth in the schedule or inventory thereof hereunto annexed; which said goods and chattels are worth, to be sold, the sum of —*l.* All which said goods and chattels, I the said sheriff, by virtue of the said writ, on the day of taking this inquisition, have seized and taken into his said majesty's hands, as by the said writ I am commanded." And the jurors, &c. (as in last, stating that the defendant, at the time of the outlawry, &c. had no lands or tenements, nor hath he any other or more goods and chattels, &c.)*

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by a certain inquisition indented, taken before you, at — in your county, on, &c. (43.) by virtue of our writ of special *capias utlagatum*, under the seal of our court of King's Bench, (*or Common Pleas,*) to you the said sheriff directed, whereby we commanded you to inquire what goods and chattels, lands and tenements, *C. D.* late of — had in your bailiwick, the — day of — then last past, or at any time afterwards, on which day he was outlawed in your said county, at the suit of *A. B.* in a plea of trespass on the case, (*or as the plea is,*) it was found by the oath of *E. F.* and other good and lawful men of your said county, that *C. D.* in the said writ named, on the — day of — then last, on which day he became outlawed, and on the day of taking the said inquisition, was possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and expressed in the schedule or inventory thereof hereunto annexed, which said goods and chattels were worth, to be sold, the sum of —*l.*; all which said goods and chattels you the said sheriff, by virtue of our

(§ 23.)

Venditioni exponas.

Prac. 137.

said writ, on the day of taking the said inquisition, did seize and take into our hands; as by the said writ, and inquisition taken thereupon, transcribed into our court of Exchequer, and there remaining in the custody of our remembrancer, more fully appears: And we being desirous to be satisfied of the value of the said goods and chattels in the said inquisition mentioned, as is just, command you, that you sell, or cause to be sold, the said goods and chattels, and every part thereof, for the best price that can be got for the same, and at the least for the said sum of —*l.* at which they were so appraised as aforesaid, so that you have the sum of money arising by such sale, before the barons of our Exchequer at *Westminster*, the — day of this instant —, then and there to be paid to our use; and that you make then and there distinctly and plainly appear to our said barons, all that you shall do concerning the premises; and have then there this writ. Witness Sir *William Alexander*, &c. (33.)

By the said transcript, and by the Barons.

By virtue of this writ to me directed, I have caused the goods and chattels in the schedule or inventory hereunto annexed mentioned, to be sold for the sum of —*l.* being the best price I could get for the same; which money I have before the barons of the king's Exchequer at *Westminster*, on the day within-mentioned, ready to be paid to his majesty's use, according to the command thereof.

The answer, &c. (40.)

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas — our late sheriff of —, by virtue of our writ of *capias utlagatum*, issuing out of our court before us at *Westminster*, against *C. D.* late of —, outlawed in *London* on the feast of —, being the — day of — in the — year of our reign, at the suit of *A. B.* in a certain plea of trespass on the case, (or, as the plea is,) to the damage of the said *A. B.* of —*l.* to our said late sheriff directed, on the — day of — in the — year aforesaid, seized and took into our hands, a certain annuity of —*l.* per annum, payable on the — day of —, (&c.) in every year, for and during the joint natural lives of *E. F.* of —, and *G. H.* of —; which said annuity was granted by a certain indenture, dated the — day of — 18—, and made between *I. K.* of the one part and the said *C. D.* of the other part; by which indenture the said *I. K.* granted the said annuity to the said *C. D.* during the period aforesaid, to be issuing and payable out of certain lands and hereditaments, belonging to the said *I. K.* situate and being at — in your said county; and also the sum of —*l.* for the arrears of the said annuity, due on the — day of — in the — year aforesaid; which said annuity and arrears were found to be the property of the said *C. D.*; as by the transcript of the said writ of *capias utlagatum*, and the return thereof, and of a certain inquisition thereupon taken, certified unto our Exchequer, and there in our custody remaining, more fully appears: Now we, being desirous to be satisfied of the arrears of the said annuity, from the said time of taking thereof into our hands, and which have not been answered to us, and also the future payments thereof, for and during the joint natural lives of the said *E. F.* and *G. H.* with all the speed we can, (as is just,) do command you, that

(§ 24.)
Return thereto.
Prac. 137.

(§ 24. a.)
Levuri facias,
for levying ar-
rears of annuity,
charged on land.
Prac. 137, 8.

CHAP. VII. you omit not by reason of any liberty of your county, but that you enter the same, and cause to be raised collected and levied the said last-mentioned arrears, and also the future payments of the said annuity, as the same shall from time to time become due as aforesaid: And have the monies which you shall so cause to be raised collected and levied, before the barons of our Exchequer at *Westminster*, on — next coming, to be then and there paid to our use; and have there then this writ. Witness Sir *William Alexander, &c.* (33.)

To the right honourable the lords commissioners of his majesty's treasury.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of —, being justly indebted to your petitioner in the sum of —*l.* for goods sold, &c. (*as the case may be*;) your petitioner commenced an action against the said *C. D.* for the recovery thereof, wherein he has proceeded to outlawry; and that by virtue of a certain writ of special *capias utlagatum*, issued upon the return of the writ of *exigi facias*, against the said *C. D.* directed to the then sheriff of —, *E. F.* Esquire, then sheriff of the said county of —, returned to the said writ of special *capias utlagatum* to him directed, an inquisition indented, taken at — in the said county, on the — day of — in the year of our Lord 18—, by which it was found, amongst other things, that the said *C. D.* on —, on which day he was outlawed at the suit of your petitioner, was seised in his demesne as of fee, (*or*, for the term of his life,) of and in one messuage and one close of pasture with the appurtenances, called or known by the name of —, situate lying and being in the parish of — in the county aforesaid, containing by estimation — acres of land, and then in the tenure or occupation of —, of the clear yearly value of —*l.* in all issues, beyond reprises, and also of and in one other close of pasture, &c. (*as in the inquisition*;) and that the said sheriff, by virtue of the said writ, on the said day of taking that inquisition, had taken and caused to be seized into the hands of our said lord the now king, all and singular the said premises with the appurtenances, as by the said writ he was commanded: as by the return of the said writ of special *capias utlagatum*, now remaining of record in his majesty's court of Exchequer, may more fully and at large appear: And your petitioner further sheweth unto your lordships, that the said outlawry still remains in full force and effect, not vacated, superseded, reversed, or annulled; and that your petitioner's said debt, and the expenses which he has necessarily been put to, in prosecuting the said *C. D.* to outlawry, amount to a large sum of money, that is to say, to the sum of —*l.* and upwards, and that no part thereof has been paid or satisfied to your petitioner. Wherefore your petitioner humbly prays your lordships' favour and interposition, that by and with the consent of his majesty's attorney-general in this behalf obtained, a lease may be made to your petitioner, by and from his majesty's court of Exchequer, whereby your petitioner may be enabled to levy, take, collect and receive the issues and profits of the said outlaw's lands and tenements, so found by the said inquisition, to the value thereof respectively appraised and

(§ 25.)
Petition to the
lords of the
roy, for a
of the
's land.
Prac. 138.

extended, till such times as sufficient thereout shall be made, collected, and levied, to satisfy your petitioner's said debt, costs and charges, or until such time as the said *C. D.* shall cause the said outlawry, so had in due form of law against him, to be reversed or annulled. CHAP. VII.

And your petitioner, as in duty bound, shall ever pray, &c. *A. B.*
To the right honourable the lords commissioners, &c. (46.)

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of —*l.* for goods sold, &c. (*as the case may be,*) your petitioner commenced an action against the said *C. D.* for the recovery thereof, wherein he has proceeded to outlawry.

That a writ of special *capias utlagatum* having issued against the said *C. D.* out of his majesty's court of King's Bench (or Common Pleas) at *Westminster*, at the suit of your petitioner, an inquisition was taken thereon by the sheriff of —, whereby certain goods and chattels to the value of —*l.* mentioned in the said inquisition, were by the said sheriff seized and taken into his majesty's hands; which writ and inquisition being transcribed into his majesty's court of Exchequer at *Westminster*, a writ of *venditioni exponas* duly issued out of the said court, whereon the said sheriff hath returned, that he had, by virtue thereof, caused the goods and chattels in the said last writ mentioned to be sold for the sum of —*l.* being the best price he could get for the same; which money he had before the barons of the king's Exchequer at *Westminster*, on the day in the said last writ mentioned, ready to be paid to his majesty's use, and which money now remains in the hands of the said sheriff.

That your petitioner's said debt, and the expenses he has been at in the said proceedings, greatly exceed the sum so remaining in the sheriff's hands; and as his majesty is not concerned in interest, but his name only made use of by your petitioner, for the recovery of his said debt:

Your petitioner therefore most humbly prays your lordships, that his majesty's attorney general may be authorized to consent, on behalf of his majesty, that the said sum of —*l.* may be paid to your petitioner, towards satisfaction of his said debt and costs.

And your petitioner, as in duty bound, shall ever pray, &c.

A. B.

To the right honourable the lords commissioners, &c. (46.)

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of —, being justly indebted to your petitioner in the sum of —*l.* your petitioner did at a considerable expense, prosecute the said *C. D.* to an outlawry; and by virtue of a writ of special *capias utlagatum*, directed to the sheriff of —, certain goods of the said *C. D.* were seized and taken into his majesty's hands; which goods were afterwards sold by the said sheriff, by virtue of a writ of *venditioni exponas*, for the sum of —*l.* and the money thereupon raised still remains in the hands of the said sheriff.

(§ 26.)

The like, to be satisfied out of the produce of his goods.

Prac. 138. 509.

(§ 27.)

The like, more concisely.

Prac. 138.

CHAP. VII.

That your petitioner's said debt, and the expense he has been at in prosecuting the said outlawry, greatly exceed the sum so remaining in the hands of the said sheriff:

Wherefore your petitioner most humbly prays your lordships, that the money so levied as aforesaid, may be paid over to your petitioner.

And your petitioner shall ever pray, &c.

A. B.

(§ 28.)

Reference
thereon, to
their solicitor.

Prac. 138.

Whitchall, Treasury Chamber,

— day of — 18—.

The right honourable the lords commissioners of his majesty's treasury are pleased to refer this petition to — Esquire, (*solicitor to the treasury*), who is to consider the same, and report to their lordships a true state of the petitioner's case, together with his opinion what is fit to be done therein.

(§ 29.)

Certificate of
clerk in court.

Prac. 138.

These are to certify, that in — term, in the — year of the reign of his present majesty king *George* the Fourth, a transcript of an outlawry was returned and filed in this court, against *C. D.* late of —, outlawed in —, at the suit of *A. B.* in a plea of trespass on the case, (*or as the plea is*), by which transcript it appears, that several goods and chattels of the said *C. D.* were seized into his majesty's hands by — Esquire, then sheriff of the said county of —, by virtue of a special *capias utlagatum*, in the said transcript specified; and I further certify, that a writ of *venditioni exponas* has issued, for selling the said goods and chattels so seized, whereon the said sheriff hath returned, that he hath sold the same for the sum of —*l.*

(§ 30.)

Affidavit of
plaintiff's debt
and costs.

Prac. 138.

In the King's Bench, (*or Common Pleas.*) *A. B.* plaintiff, &c. (17.)

A. B. of — maketh oath and saith, that the above-named *C. D.* is justly and truly indebted unto this deponent in the sum of —*l.* according to the annexed account, and also in the further sum of —*l.* for costs paid to Mr. —, this deponent's solicitor, in prosecuting the outlawry in this cause against the said *C. D.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 31.)

Report on re-
ference.

Prac. 138.

To the right honourable the lords commissioners, &c. (46.)

May it please your lordships,

In humble obedience to your lordships' commands, signified to me by Mr. —, I have considered of the annexed petition of *A. B.* setting forth, that *C. D.* &c. (*reciting the whole of the petition.*)

And I do most humbly certify to your lordships, that I have received satisfaction as to the truth of all the allegations in the said petition contained, as well by sight of the several records thereby referred to, and a certificate of the said outlawry's being transcribed into the office of his majesty's remembrancer of the Exchequer, signed by Mr. —, one of the attorneys of that office, as by the affidavit of the petitioner, whereby it appears to me that the said *C. D.* is justly indebted to the petitioner in the sum of —*l.* for goods sold, &c. (*as the case may be.*)

And it appearing, by the affidavit of the said petitioner, that his said debt, with the several charges he has been already put to in outlawing the

said *C. D.* do exceed the sum levied by the sheriff; and as the petitioner CHAP. VII. must still necessarily be put to a further expense, I am most humbly of opinion, that it may be proper for your lordships to send your warrant to his majesty's attorney general, authorizing him to consent to an order of his majesty's court of Exchequer, for — Esquire, the present sheriff of the county of —, to pay over the said sum of —*l.* now remaining in his hands, after deducting the sheriff's poundage for levying the same, and other incidental charges, unto the petitioner for his own use, towards satisfaction of his said debt and costs, whenever a motion shall be made in the said court of Exchequer for that purpose. All which is nevertheless most humbly submitted to your lordships' superior judgment.

— 18—.

George R.

WHEREAS we are given to understand, that there is remaining in the hands of — Esquire, the present sheriff of the county of —, the sum of —*l.* for so much money levied by him on the several goods belonging to *C. D.* which were seized into our hands, by virtue of an inquisition taken by virtue of a writ of *capias utlagatum*, issued out of our court of King's Bench, (or Common Pleas,) against the said *C. D.* at the suit of *A. B.* for the recovery of a debt due and owing to him from the said *C. D.*: And whereas it further appears by reports, certificates, and other proper testimonies, which the commissioners of our treasury have laid before us, that the debt due and owing to the said *A. B.* from the said *C. D.* together with the costs which he hath been put to in carrying on the said prosecution against the said *C. D.* for recovery of the said debt, doth exceed the said sum of —*l.* remaining in the hands of the said sheriff as aforesaid: To the end, therefore, that the said *A. B.* may have and receive some recompence and satisfaction towards his said debt, and the charges he hath been put to in suing for the same; our will and pleasure is, and we do hereby authorize and direct you to consent and agree, that so much of the said sum of —*l.* as doth or shall remain in the hands of the said sheriff, after deducting the usual poundage for levying the same, be paid over to the said *A. B.* towards satisfaction of his said debt and costs accordingly, whenever he by his counsel learned in the law shall think fit to move our court of Exchequer for an order for that purpose; and we do also authorize and direct you to do, or cause to be done, such further or other acts, as our said court of Exchequer upon such motion shall or may judge necessary for rendering our intentions herein most firm, valid and effectual; and for so doing, this shall be your warrant. Given at our court at *St. James's*, the — day of — in the — year of our reign.

By his majesty's command.

To our trusty and well beloved Sir }
Charles Wetherell knight, our at- }
 torney general. }

(§ 32.)

Warrant for the attorney general to consent to an order for payment of the money.

Prac. 138.

(§ 33.)

Order for the sheriff to pay the money to the prosecutor.

Prac. 138.

— the — day of — 18—.

Between the king and *C. D.* outlawed at the suit of *A. B.* upon an outlawry. Upon the motion of *Mr. G. Paisley*, of counsel for *A. B.* informing the court, that the said *C. D.* having been prosecuted to an outlawry by the said *A. B.* upon an action of trespass on the case, in his majesty's court of King's Bench, (or Common Pleas,) a writ of special *capias utlagatum* thereupon issued against the said defendant, under the seal of the said court, directed to the sheriff of —; by virtue whereof, the said sheriff seized by inquisition several goods and chattels belonging to the said defendant, appraised at —*l.*; and further informing the court, that the said writ of *capias utlagatum* and inquisition being transcribed into this court, a writ of *venditioni exponas*, under the seal of this court, issued on the — day of — last, for selling the said goods, returnable the — day of —, at which time — Esquire, the present sheriff of —, returned the said writ, and certified that he had sold the said goods and chattels, for the said sum of —*l.* It was therefore prayed by the said *Mr. G. Paisley*, that the said — Esquire, or his under-sheriff, might forthwith pay to the said *A. B.* or his order, the said sum of —*l.* towards satisfaction of the debt due from the said defendant to the said prosecutor: Whereupon, and on hearing *Sir Charles Wetherell* knight, his majesty's attorney general, who consented thereto on the behalf of his majesty, it is ordered by the court as prayed; the said sheriff first deducting out of the said —*l.* the usual poundage.

(§ 34.)

Subpoena.

Prac. 139.

George the Fourth, &c. (14.) To — Esquire, sheriff of our county of —, or to his under-sheriff, greeting: We command you, that laying aside all excuses, you obey, fulfil and perform all and every matter and thing specified in an order of our court of Exchequer at *Westminster*, made in a cause in our said court depending between us and *C. D.* outlawed at the suit of *A. B.* upon an outlawry; the tenor of which order, for your fuller information therein, is hereto annexed; and this you are not to omit, under the penalty of one hundred pounds, which we shall cause to be levied upon your goods and chattels, lands and tenements, for our use, if you neglect this our command. Witness *Sir William Alexander, &c.* (33.)

By the said Order, made the same day; and by the Barons.

As yet of — term, (the term in which the defendant was outlawed,) in the — year of the reign of king *George the Fourth.*

Witness *Charles Lord Tenterden.*

(§ 34. a.)

Filacer's entry of proceedings to outlawry, where there was a writ of foreign proclamation, and *allocatur exigent*; and recognition of bail in error, to reverse outlawry.

Prac. 141, 2.

London, (to wit.) The sheriffs were commanded, that they should take *C. D.* late of —, (the defendant in this suit,) if he should be found in their bailiwick, and him safely keep, so that they might have his body before the lord the king, on —, (the return of the *capias*,) wheresoever the said lord the king should then be in *England*, to answer *A. B.* (the plaintiff in this suit,) of a plea that whereas, &c. (reciting the *capias*, to the words "as it is said":) At which day, that is to say, on —, (the re-

turn of the capias;) in this same term, before the said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself, on the fourth day, against the said *C. D.* of the plea aforesaid: And the sheriffs of *London* aforesaid thereupon returned, that the said *C. D.* was not found, &c.; and the said *C. D.* did not come: Therefore, as before, it was commanded to the sheriffs, that they should take the said *C. D.* if, &c. and him safely keep, so that they might have his body before the said lord the king, on — wheresoever, &c. to answer the said *A. B.* of the plea aforesaid: At which day, before the said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself, on the fourth day, against the said *C. D.* of the plea aforesaid: And the sheriffs of *London* aforesaid thereupon returned, that the said *C. D.* was not found, &c. and the said *C. D.* did not come: Therefore, as oftentimes before, it was commanded to the sheriffs, that they should take the said *C. D.* if, &c. and him safely keep, so that they might have his body before the said lord the king, on — wheresoever, &c. to answer the said *C. D.* of the plea aforesaid: At which day, before the said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself, on the fourth day, against the said *C. D.* of the plea aforesaid: And the sheriffs of *London* aforesaid thereupon returned, that the said *C. D.* was not found, &c.; and the said *C. D.* did not come: Therefore the sheriffs of *London* aforesaid were commanded, that they should cause the said *C. D.* to be demanded from husting to husting, till he should be outlawed, if he did not appear; and if, &c. then that they should take him, and him safely keep, so that they might have his body before the said lord the king, on — wheresoever, &c. to answer the said *A. B.* of the plea aforesaid: It was also commanded to the sheriff of —, that in pursuance of the statute in such case made and provided, he should cause the said *C. D.* to be proclaimed upon three several days, according to the form of the said statute, that he should render himself to the said last-mentioned sheriff, so that he might have his body before the said lord the king, at the time last aforesaid, to answer the said *A. B.* of the plea aforesaid: At which day, before the said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself, on the fourth day, against the said *C. D.* of the plea aforesaid; and the sheriffs of *London* aforesaid, to wit, — Esquire and — Esquire, at that day returned to the said writ of *exigi facias*, that at the husting of pleas of land, held at the *Guildhall*, in and for the city of *London*, on —, in the — year of the reign of the said lord the king, the said *C. D.* was a first time demanded, and did not appear; and that at the husting of pleas of land, held at the *Guildhall* aforesaid, on — in the — year aforesaid, the said *C. D.* was a second time demanded, and did not appear; and that at the husting of pleas of land, held at the *Guildhall* aforesaid, on — in the — year aforesaid, the said *C. D.* was a third time demanded, and did not appear: And because there was no other husting of pleas of land, held at the *Guildhall* afore-

Return to *capias*.Award of *alias capias*.Return to *alias capias*.Award of *pluries capias*.Return to *pluries capias*.Award of *exigi facias*.

Writ of foreign proclamation.

Return to writ of *exigi facias*.

CHAP. VII.

Return to writ
of foreign pro-
clamation.

Award of *alloca-*
tur exigent.

Return thereto.

Judgment of
outlawry.

Writ of error
thereon.

Recognizance of
bail in error.

said, from the issuing forth of the said last-mentioned writ, until the return thereof, therefore the said last-mentioned sheriffs could not proceed thereon. And the sheriff of ——— aforesaid, to wit ——— Esquire, at that day returned, that by virtue of the said writ of foreign proclamation to him directed, he had caused the said *C. D.* to be proclaimed three several days, according to the effect of the statute in the said last-mentioned writ mentioned, as the said sheriff was therein commanded; and the said *C. D.* did not come: Therefore it was commanded to the sheriffs of *London* aforesaid, that allowing those three hustings, at which the said *C. D.* was demanded and did not appear, the said last-mentioned sheriffs should cause the said *C. D.* to be further demanded, from husting to husting, until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that they should take him, and cause him to be safely kept, so that they might have his body before the said lord the king, on ———, wheresoever, &c. to answer the said *A. B.* of the plea aforesaid: At which day, before the said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself, on the fourth day, against the said *C. D.* of the plea aforesaid; and the sheriffs of *London* aforesaid thereupon returned, that at the husting of pleas of land, held at the *Guildhall*, in and for the city of *London* aforesaid, on ——— in the ——— year aforesaid, the said *C. D.* was a fourth time demanded, and did not appear; and that at the husting of pleas of land, held at the *Guildhall* aforesaid, on ——— in the ——— year aforesaid, the said *C. D.* was a fifth time demanded, and did not appear: Therefore he was outlawed. And afterwards, to wit, on the ——— day of ——— in the year of our lord 18—, before the said lord the king at *Westminster*, comes the said *C. D.* by ——— his attorney, and produces here in court a certain writ of the said lord the king, for reversing the said outlawry, for certain supposed causes of error therein: And hereupon, at the same day, *E. F.* of ——— and *G. H.* of ——— come here into the court of the said lord the king, before the king himself, at *Westminster*, in their proper persons; and become pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said *C. D.* and acknowledge themselves to owe, and each of them doth acknowledge himself to owe, to the said *A. B.* the sum of ———*l.* and do submit and grant, for themselves and their heirs, and each of them doth submit and grant, for himself and his heirs, that the said sum of ———*l.* shall and may be made of their and each of their lands and chattels, and levied to and for the use of the said *A. B.* in case the said *C. D.* shall happen to be convicted in the plea aforesaid, at the suit of the said *A. B.* and if the said *C. D.* shall not pay and satisfy unto the said *A. B.* all such damages, costs and charges, as shall be adjudged to the said *A. B.* in the plea aforesaid, &c.*

* It is not usual for the *filacer*, in taking the recognizance, in the King's Bench, to make the bail undertake to appear to a *new* original; nor does he take it in the *alternative* form, so as to allow the bail to render the principal, without the special direction of the Court.

As yet of — term, (*the term in which the capias was returnable,*) &c. (§ 34. a.)

London, (to wit.) Our lord the king sent to his sheriffs of *London*, his writ close in these words, (that is to say:) *George the Fourth, &c. (to the end of the writ of exigent, and then as follows:)* On which day, before our said lord the king at *Westminster*, — and —, sheriffs of *London* aforesaid, have returned the writ aforesaid, to them directed, as follows, that is to say, (*to the end of the return of the exigent: and if there be an allocatur exigent, copy same and the return thereto, beginning each on a new line, and proceed as follows:*)

Afterwards, to wit, on — next after —, in the — year of the reign of our said lord the now king, (*the quarto die post of the return of the exigent, or allocatur, on which the defendant was outlawed,*) before our said lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and immediately says, that no writ of our said lord the king of proclamation, according to the form of the statute of the thirty first year of the reign of the Lady *Elizabeth*, late Queen of *England*, in that case made and provided, issued against the said *C. D.* in the plea aforesaid; whereby the outlawry aforesaid, against the said *C. D.* in form aforesaid pronounced and had, is by the said statute void, and of no force or effect in law; and this he the said *C. D.* is ready to verify, wherefore he prays judgment, and that the outlawry aforesaid against him the said *C. D.* in form aforesaid pronounced and had, may be revoked, annulled, and altogether held for nothing, and that he the said *C. D.* may be restored to the common law of *England*, and to all things which he hath lost on occasion of the said outlawry: And the said *C. D.* according to the form of the statute in that case made and provided, finds sufficient bail, to wit, *I. K.* of — and *L. M.* of —. And now here at this day come the bail aforesaid, and each of them for himself severally acknowledges to owe to the said *A. B.* — *l.* which said several sums of — *l.* they grant, and each of them for himself grants, shall be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* on condition that the said *C. D.* shall appear and answer the said *A. B.* to a new original writ, by the said *A. B.* to be sued out for the cause in the said writ mentioned, and shall pay the condemnation which shall be recovered, if the said *A. B.* shall prosecute his suit within two terms next following: Whereupon, the aforesaid writ being seen, and the file of writs of the return of the said writ of *exigi facias* being searched for the writ of proclamation aforesaid, it manifestly appears to the same court now here, that the allegation of the said *C. D.* above made for his discharge from the outlawry aforesaid, is true: Therefore it is considered, that the outlawry aforesaid against the said *C. D.* in form aforesaid pronounced and had, be revoked, annulled, and altogether held for nothing, and that the said *C. D.* be discharged from the outlawry aforesaid, and be in no-wise molested or aggrieved on that occasion, but go thereof without day, &c. and that the said *C. D.* be restored to the common law of *England*, and to all things which he hath lost on occasion of the outlawry aforesaid, &c.

(§ 35.)
Entry of outlawry on the roll, with plea of no proclamation, and reversal of outlawry thereon, in *K. B.*
Prac. 139. 143.

(§ 35. a.)
The like, another way, on plaintiff's confession.
Prac. 139. 143.

(*As in the last, to the end of the plea of 'no writ of proclamation', and then as follows :*) And the said *A. B.* by *E. F.* his attorney, comes and confesses that true it is, that no writ of proclamation hath issued against the said *C. D.* in the plea aforesaid, as the said *C. D.* hath above alleged: It is therefore considered, &c. (*as in last.*)

(§ 35. b.)
Plea that defendant was beyond sea, at the time of the exigent awarded, and entry of reversal thereon.
Prac. 139. 143.

(*As in § 35. to the end of the return of the exigent, and then as follows :*)

Afterwards, to wit, on — next after —, in — term, in the — year of the reign of our lord the now king, before our said lord the king at *Westminster*, comes the said *C. D.* in his own person, and prays that the said outlawry, in form aforesaid pronounced and had, may be revoked; because he says, that he the said *C. D.* long before and at the time of the awarding and issuing forth of the said writ of *exigent*, and from thence until and at and after the return thereof, was abroad, in foreign parts, and beyond the seas, to wit, at —, out of the dominions of our said lord the now king: And because the said *A. B.* being also present here in court, cannot deny the said allegation of the said *C. D.* but admits the same to be true; and it thereupon being fully proved to the court here, that the said *C. D.* was really, before and at the time of the awarding and issuing forth of the said writ of *exigent*, and from thence until and at the return thereof, abroad, in foreign parts, and beyond the seas, and out of the dominions of our said lord the now king; and for as much as the said *C. D.* hath put in good bail in this court here, to answer the said *A. B.* in a plea of *debt* for — *l.* (*or, in a plea of trespass on the case, to the damage of the said A. B. of — l.*) It is therefore considered, in and by the same court here, that the said outlawry, in form aforesaid pronounced and had, be revoked, &c. (*as in § 35.*)

(§ 36.)
Supersedeas, upon the reversal of an outlawry, for want of proclamation.
Prac. 144.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but by the oath of honest and lawful men, &c. (*reciting the writ of special capias utlagatum, to the words,* “to do and receive what our court before us should consider of him in that behalf:”) And because it sufficiently appears to us of record, in our court before us, (*or, in C. P. before our justices at Westminster,*) that the outlawry aforesaid is reversed for want of proclamation, according to the form of the statute in that case made and provided; and that the said *C. D.* thereupon came here into our court before us, (*or, in C. P. before our justices aforesaid,*) and found sufficient bail to answer to the said *A. B.* upon a new original writ to be brought by the said *A. B.* within two terms next after the reversal of the outlawry aforesaid, and to satisfy the condemnation, if the said *C. D.* should be convicted: Therefore we command you, that if you have taken the goods and chattels of the said *C. D.* by virtue of the writ aforesaid, you cause them to be re-delivered to the said *C. D.* without delay: We also command you, that you wholly cease from taking the said *C. D.* attaching, imprisoning, or any-wise molesting him on the occasion aforesaid; and if you have taken him on that occasion, and no other, then that you cause him to be set at liberty without delay, at your peril. Witness, &c. (30, 31.)

George the Fourth, &c. (14.) To the sheriff of — greeting: (§ 37.)
 Whereas by our writ, we lately commanded you, &c. (*as in the preceding form, to the words* “consider of him in that behalf.”) And because the said *C. D.* by the assent of the attorney of the said *A. B.* came into our court before us, (*or, in C. P. before our justices at Westminster,*) and found sufficient bail to answer to the said *A. B.* of the plea aforesaid, and to satisfy the said *A. B.* all damages, costs and charges, in that behalf to be recovered, if it should happen that the said *C. D.* should be convicted in the plea aforesaid, and did not satisfy the said damages, costs and charges, or render himself to the prison of the Marshal of the Marshalsea of our court before us, (*or, in C. P. to our prison of the Fleet,*) on that occasion: Therefore we command you, &c. (*as in the preceding form, to the end.*)

Aliter, by consent of the plaintiff's attorney, on the defendant's putting in bail.
Prac. 144.

That his majesty's hands be removed from the possession of the premises in the inquisition mentioned; and that the said *C. D.* (*the outlaw, or representative,*) be restored to his possession thereof, together with the rents, issues and profits thereof, which have not as yet been answered to his said majesty; and (*in case a lease has been granted,*) that the said lease, in form aforesaid made, be void and of no effect; and that as well the said —, late sheriff of the county of —, as all others who have been, now are, or hereafter shall be sheriffs of the said county, shall be discharged in their accounts towards his said majesty, his heirs and successors, as well of the rents and profits of the said premises, as of the said annual rent of —, which have not been answered to his said majesty; and lastly, that the said *C. D.* as to the said premises, may be dismissed the court, by reason of the said confession, and other the premises.

(§ 38.)
 Judgment in the Exchequer, on the reversal of an outlawry, or death of the outlaw.
Prac. 144.

George the Fourth, &c. (14.) To the sheriff of — greeting: (§ 39.)
 Whereas *A. B.* lately in our court before us, (*or, in C. P. before our justices at Westminster,*) by our writ, impleaded *C. D.* late of —, of a plea, &c. (§ 34. a.) as it is said; and the said *C. D.* because he did not appear in our said court, (&c.) to answer the said *A. B.* thereupon, according to the law and custom of *England*, was put in *exigent* in your county to be outlawed, and was on that occasion outlawed, as appears to us of record: And we, being moved with pity, have pardoned the aforesaid outlawry, and granted to him our firm peace thereupon; nevertheless, so that he stand rightly in our court before us, (*or, in C. P. before our said justices at Westminster,*) in respect of this outlawry, according to the form of the statute in such case made and provided: And because it is necessary and expedient, before the said *C. D.* quietly withdraws from our court before us, (*or, in C. P. before our justices aforesaid,*) that the said *A. B.* be warned: Therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us on —, wheresoever we shall then be in *England*, (*or, in C. P. before our said justices at Westminster, on —,*) to prosecute further his plea aforesaid against the said *C. D.* if he will, and further to do and receive what our court before us (*or, in C. P. our court, omitting “before us,”*) shall consider of him in this behalf; and have there the names of those by whom you shall so make known to him, and this writ. Witness, &c. (30, 31.)

(§ 39.)
Scire facias, upon the pardon of an outlawry by the king.
Prac. 144.

(§ 40.)
Scire facias,
 upon the pardon
 of an outlawry
 by statute.
Prac. 144.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but that you should take *C. D.* late of —, being outlawed at — in your county, on —, at the suit of *A. B.* of a plea, &c. (§ 34. a.) if he should be found in your bailiwick, and him safely keep, so that you might have his body before us, on —, wheresoever we should then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on —,) to do and receive, &c. (43.): But because by a certain act, made in our parliament holden at *Westminster* in the county of *Middlesex*, on —, the said outlawry against the said *C. D.* in form aforesaid pronounced and had, was pardoned to the said *C. D.*; nevertheless, so that the said *C. D.* prosecute in our court before us, (or, in *C. P.* before our said justices at *Westminster*,) our writ of *scire facias*, to warn the said *A. B.* of the plea aforesaid, if the said *A. B.* will complain against him: And because it is expedient and necessary that the said *A. B.* for his interest in this behalf be warned, before any further proceedings are had for discharging the said *C. D.* of the outlawry aforesaid; therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* before our said justices at *Westminster*, on —,) to prosecute his plea aforesaid against the said *C. D.* if he shall be willing; and have there the names of those by whom you shall so make known to him, and this writ. Witness, &c. (30, 31.)

(§ 41.)
 Entry of return
 thereto.
Prac. 144.

At which said —, before our said lord the king at *Westminster*, came (or, in *C. P.* came here) the said *C. D.* in his proper person; and the sheriff of the county aforesaid, to wit, — Esquire, by virtue of the said writ to him thereupon directed, returned that he, by *E. F.* and *G. H.* honest and lawful men of his bailiwick, had made known to the said *A. B.* to be before our lord the king at the day aforesaid, wheresoever, &c. (or, in *C. P.* before the justices of our said lord the king at *Westminster*, at the day aforesaid,) to prosecute his plea against the said *C. D.*; and the said *A. B.* although at that day solemnly called, and so warned, did not come, but made default: Therefore he and his pledges to prosecute, to wit, *John Doe* and *Richard Roe*, are thereupon in mercy, &c. and let the said *C. D.* go thereof without day, &c. and let the pardon of our lord the king, according to the form of the aforesaid statute, be allowed to the said *C. D.* &c.

CHAP. VIII.

BILL of MIDDLESEX and LATITAT, and SUBSEQUENT PROCESS thereon, in the KING'S BENCH; CAPIAS QUARE CLAUSUM FREGIT, &c. in the COMMON PLEAS; and PROCESS in the EXCHEQUER.

Middlesex, (to wit). *A. B.* complains of *C. D.* For that the said *C. D.* on the — day of — in the — year of the reign of our lord the now king, with force and arms, &c. broke and entered the close of the said *A. B.* at — in the county aforesaid; and other wrongs to him did, to the damage of the said *A. B.* of —l. and against the peace of our said lord the now king, &c.

(§ 1.)

Queritur, or
plaint, in tres-
pass, in K. B.
Prac. 146.

Pledges to prosecute, { *John Doe*,
and
Richard Roe.

The sheriff is commanded, that he attach *C. D.* so that he be before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; and that he have there then this precept.

(§ 2.)

Attachment
thereon.

Prac. 146.

By Bill.

Ellenborough.

The within-named *C. D.* is attached by pledges, { *E. F.*
G. H.

(§ 3, 4.)

Returns thereto.

Prac. 146.

The answer of — sheriff.

The within-named *C. D.* hath nothing in my bailiwick, by which he can be attached.
The answer of — sheriff.

Middlesex, (to wit.) Bill, for *A. B.* against *C. D.* returnable on — next after —.

(§ 5.)

Præcipe for bill
of *Middlesex*,
not bailable.

Prac. 149.

Middlesex, (to wit). The sheriff is commanded to take *C. D.* and *Richard Roe*, if they be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; and that he have there then this precept.

(§ 6.)

Bill of *Middle-*
sex, not bail-
able.

Prac. 146, 7.

By Bill.

Ellenborough.

E. F. Temple,
Plaintiff's attorney, (or agent).

(§ 7.)

Indorsement
thereon.

Prac. 158, 9.

— 18—.

Middlesex, (to wit). *Alias* (or *pluries*) bill, for *A. B.* against *C. D.* returnable on — next after —.

(§ 8.)

Præcipe for *alias*
or *pluries* bill of
Middlesex.

Prac. 149.

E. F. attorney.

— 18—.

(§ 9.) *Middlesex*, (to wit). The sheriff is commanded, as *before* he was (or, *Alias or pluries* as oftentimes before he hath been) commanded, to take *C. D.* and *Richard* bill of *Middlesex*. *Roe*, &c. (as in the bill of *Middlesex*, altering the return.)
Prac. 147.

(§ 10.) — (to wit). *Latitat*, for *A. B.* against *C. D.* *Trespas*, returnable *Præcipe for latit-* on — next after —. *E. F.* attorney.
titat, not bailable.
Prac. 149. — 18—.

(§ 11.) *George the Fourth*, &c. (14.) To the sheriff of — (the county into which the writ issues,) greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in your county: Therefore we command you, that you take them, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to answer the said *A. B.* of the plea aforesaid; and have there then this writ. Witness *Charles* Lord *Tenterden*, at *Westminster*, the — day of —, in the — year of our reign.

Ellenborough.

Indorsement thereon, as before, § 7.

(§ 12.) Direction of *latit-* titat, or other process, to the sheriff or sheriffs of a city.
Prac. 151.

To the sheriff (or sheriffs) of our city of —.

And note; the cities of *Canterbury*, *Exeter*, *Litchfield*, and *Worcester*, have only one sheriff; but the cities of *Bristol*, *Chester*, *Coventry*, *Gloucester*, *Lincoln*, *London*, *Norwich*, and *York*, have two sheriffs; and the process should be directed accordingly*.

(§ 13.) The like, to the sheriff or sheriffs of a town and county.
Prac. 151.

To the sheriff (or sheriffs) of our town and county of —.

And note; the towns and counties of *Carmarthen*, *Haverfordwest*, *Kingston upon Hull*, *Newcastle upon Tyne*, *Poole* and *Southampton*, have only one sheriff; but the town and county of *Nottingham* has two sheriffs*.

(§ 14.) The like, to the coroner.
Prac. 151.

To the coroner of our city of *London*, (or, coroners of our county of —.)

* It was stated on a late occasion, in the House of Commons, by Mr. *Sykes*, the Member for *Kingston upon Hull*, that the city of *Bristol* was made a county of itself by King *Edward the third*; the city of *York*, by King *Richard the second*; the cities of *Lincoln*, and *Norwich*, and town of *Newcastle upon Tyne*, by King *Henry the fourth*; the city of *Coventry*, and towns of *Kingston upon Hull*, *Nottingham*, and *Southampton*, by King *Henry the sixth*; the city of *Canterbury*, and town of *Haverfordwest*, by King *Edward the fourth*; the city of *Gloucester*, by King *Richard the third*; the city of *Chester*, by King *Henry the seventh*; the city of *Exeter*, by King *Henry the eighth*; the city of *Litchfield*, by Queen *Mary*; the town of *Poole*, by Queen *Elizabeth*; and the city of *Worcester*, and town of *Carmarthen*, by King *James the first*.

To our chancellor of our county palatine of *Lancaster*, or his deputy there.

To our chamberlain of our county palatine of *Chester*, or his deputy there.

To the reverend father in God, —, by divine permission, lord bishop of *Durham*, or to his chancellor there.

To our constable of our castle of *Dover*, or to his deputy there.

To the mayor and bailiffs of our borough of *Berwick upon Tweed*.

— (to wit.) *Alias* (or *pluries*) *capias*, for *A. B.* against *C. D.* *Trespass*, returnable on — next after —.

E. F. attorney.

— 18—.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, as *before*, (or “as oftentimes before”) we have commanded you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; and have there then this writ. Witness, &c. (58.)

Middlesex, (to wit.) Bill, for *A. B.* against *C. D.* Case, for — *l.* on promises, (or *as the action is*.) returnable on — next after —.

Oath for — *l.* by affidavit filed.

E. F. attorney.

— 18—.

Middlesex, (to wit.) The sheriff is commanded to take *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, according to the custom of the court of the said lord the king, before the king himself; and that he have there then this precept.

By Bill.

Ellenborough.

C. D. of —.

Bail by affidavit for — *l.*

E. F. Temple.

Plaintiff's attorney, (or agent.)

— 18—.

Middlesex, (to wit.) *Alias* (or *pluries*) bill, for *A. B.* against *C. D.* Case, for — *l.* on promises, (or *as the action is*.) returnable on — next after —.

Oath for — *l.* by affidavit filed.

E. F. attorney.

— 18—.

Middlesex, (to wit.) The sheriff is commanded, as *before* he was (or, “as oftentimes before he hath been”) commanded, to take *C. D.* and *Richard Roe*, &c. (as in the bill of *Middlesex*, altering the return.)

Middlesex, (to wit.) *Non omittas* bill, for *A. B.* against *C. D.* Case, for — *l.* on promises, (or *as the action is*.) returnable on — next after —.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

Middlesex, (to wit.) The sheriff is commanded, that he omit not by reason of any liberty in his county, but that he enter the same, and take *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them

(§ 15.)

The like, to a county palatine. *Prac.* 151.

(§ 16, 17.)

The like, to the cinque ports, &c.

Prac. 152.

(§ 18, 19.)

Præcipe for, and *alias* or *pluries capias*, not bailable, in K. B. *Prac.* 147, 149.

(§ 20.)

Præcipe for bailable bill of *Middlesex*. *Prac.* 149.

(§ 21.)

Bailable bill of *Middlesex*. *Prac.* 146, 7.

(§ 22.)

Indorsement thereon.

Prac. 158, 9, 164.

(§ 23.)

Præcipe for *alias* or *pluries* bill of *Middlesex*, bailable. *Prac.* 149.

(§ 24.)

Alias or *pluries* bill of *Middlesex*, bailable. *Prac.* 147.

(§ 25.)

Præcipe for *non omittas* bill of *Middlesex*. *Prac.* 149.

(§ 26.)

Non omittas bill of *Middlesex*. *Prac.* 147.

CHAP. VIII. safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass, and also to a bill, &c. (*as before*, § 21.)

By Bill.

Ellenborough.

C. D. &c. (*Indorsement as before*, § 22.)

(§ 27.)
Præcipe for
bailable *latitat*.

— (to wit.) *Latitat* for *A. B.* against *C. D.* Case, for — *l.* on promises, returnable on — next after —.

E. F. attorney.

Prac. 149.

Oath for — *l.* by affidavit filed.

— 18—.

(§ 28.)
Bailable *latitat*.
Prac. 147.

George the Fourth, &c. (14.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, according to the custom of our court before us; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in your county: Therefore we command you, that you take them, if they shall be found in your bailiwick, and safely keep them, so that you may have their bodies before us at *Westminster*, on — next after —, to answer the said *A. B.* of the plea, and to the bill aforesaid; and have there then this writ. Witness *Charles* Lord *Tenterden*, &c. (58.)

Ellenborough.

(§ 29.)

C. D. &c. (*Indorsement as before*, § 22.)

(§ 30.)

Præcipe for
alias, or *pluries*
capias, bailable,
in *K. B.*

— (to wit.) *Alias* (or *pluries*) *capias*, for *A. B.* against *C. D.* Case, for — *l.* on promises, (or as the action is,) returnable on — next after —.

E. F. attorney.

Prac. 149.

Oath for — *l.* by affidavit filed.

— 18—.

(§ 31.)
Alias, or *pluries*
capias, bailable,
in *K. B.*

Prac. 147.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, as *before* (or “as oftentimes before”) we have commanded you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* against the said *C. D.* for — *l.* upon promises, according to the custom of our court before us to be exhibited; and have there then this writ. Witness, &c. (*as above*.)

C. D. &c. (*Indorsement as before*, § 22.)

(§ 32.)
Præcipe for
non omittas ca-
pias, bailable,
in *K. B.*

— (to wit.) *Non omittas capias*, for *A. B.* against *C. D.* Case, for — *l.* on promises, (or as the action is,) returnable on — next after —.

E. F. attorney.

Prac. 149.

Oath for — *l.* by affidavit filed.

— 18—.

(§ 33.)
Non omittas ca-
pias, bailable,
in *K. B.*

Prac. 147.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and take *C. D.* and *Richard Roe*, &c. (*as in the alias, or pluries capias.*)

County palatine of —, (to wit.) *Latitat* for *A. B.* against *C. D.* &c. (*as for a common latitat.*)

(§ 34, 5.)
Præcipe for,
 and writ of
latitat, into a
 county palatine.
Prac. 149, 151.

George the Fourth, &c. (14.) To — (directing the writ “to our chancellor, &c.” as in § 15.) greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, according to the custom of our court before us; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in our said county palatine of —: Therefore we command you, that by our writ, under the seal of our said county palatine to be duly made, and to be directed to the sheriff of our said county palatine, you command the said sheriff, (or, if in *Durham*, that by our writ under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,) that he take the said *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before us at *Westminster*, on — next after —, to answer the said *A. B.* of the plea, and to the bill aforesaid; and have there then this writ. Witness, &c. (58.)

And also to a bill of the said *A.* and *B.* as executors of the last will and testament of *E. F.* deceased, to be exhibited against the said *C. D.* for — *l.* upon promises, according to the custom of the court of the said lord the king before the king himself, (in a bill of *Middlesex*; or, in a *latitat*, according to the custom of our court before us.)

(§ 36.)
Ac etiam in assumpsit, at the suit of executors, in *K. B.*
Prac. 150.

And also to a bill of the said *A.* and *B.* as administrators of all and singular the goods, chattels and credits, which were of *E. F.* deceased, at the time of his death, who died intestate, to be exhibited against the said *C. D.* for — *l.* upon promises, according, &c. (*as above.*)

(§ 37.)
 The like, at the suit of administrators.
Prac. 150.

And also to a bill of the said *A.* and *B.* as assignees of the estate and effects of *E. F.* a bankrupt, according to the force, form and effect of the statute concerning bankrupts, to be exhibited against the said *C. D.* for — *l.* upon promises, according, &c. (*as above.*)

(§ 38.)
 The like, at the suit of assignees of a bankrupt.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for breach of covenant, to the damage of the said *A. B.* of — *l.* according, &c. (*as above.*)

(§ 39.)
 In covenant.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* debt, according, &c. (*as above.*)

(§ 40.)
 In debt on bond, &c.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* in a plea of debt on recognizance, according, &c. (*as above.*)

(§ 41.)
 In debt on recognizance.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* in debt on statute, according, &c. (*as above.*)

(§ 42.)
 In debt on statute.

(§ 43.)
In detinue.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for detaining the goods and chattels (or “deeds and writings”) of the said *A. B.* to the value of —*l.* according, &c. (§ 36.)

(§ 44.)
In trover.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for converting and disposing of the goods and chattels of the said *A. B.* to the value of —*l.* according, &c. (§ 36.)

(§ 45.)
In trespass, *de bonis asportatis*.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for taking and carrying away the goods and chattels of the said *A. B.* to his damage of —*l.* according, &c. (§ 36.)

(§ 46.)
In trespass and assault.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for a certain trespass and assault, committed by the said *C. D.* on the said *A. B.* to his damage of —*l.* according, &c. (§ 36.)

(§ 47.)
In crim. con.
Prac. 150.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for assaulting, and having criminal conversation with *E.* the wife of the said *A. B.* to his damage of —*l.* according, &c. (§ 36.)

(§ 48.)
Entry of bill of Middlesex on the roll, to save the statute of limitations, and award of *alias*, in *K. B.*
Prac. 162.

As yet of — term, &c. (35.)

Middlesex, (to wit.) The sheriff is commanded, that he take *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; and that the said sheriff have there then this precept.

By Bill.

Ellenborough.

At which day, before the lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* and *Richard Roe*, in the plea aforesaid: and the sheriff, to wit, — and —, sheriff of *Middlesex* aforesaid, now here returns, that the said *C. D.* and *Richard Roe* are not, nor is either of them, found in his bailiwick; and the said *C. D.* and *Richard Roe* do not come. Therefore, as before, the said sheriff is commanded, that he take the said *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the said lord the king at *Westminster*, on — next after —, to answer to the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* there, &c.

Award of *alias*.

(§ 49.)
Docket paper.
Prac. 162.

The entry (or, further entry) of *E. F.* gentleman, one, &c. of the term of —, 9 Geo. IV. 1828.

Middlesex, (to wit.) Entry of bill of *Middlesex*, between *A. B.* plaintiff, and *C. D.* defendant, returnable on —. Roll —.

As yet of — term, &c. (35.)

Ellenborough.

(§ 50.)
Entry of *latitat*, and award of *alias* and *pluries capias*, in *K. B.*
Prac. 162.

England, (to wit.) Our lord the king sent to his sheriff of — his writ close in these words, to wit, *George* the Fourth, &c. (*here copy the latitat*.) At which day before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* does not come: Therefore, as before, the said sheriff is commanded, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body be-

Award of *alias*.

fore our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of the plea aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff of — aforesaid hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: And the said *C. D.* doth not come: Therefore the said sheriff is commanded, (as oftentimes before he hath been commanded,) that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* there, &c.

CHAP. VIII.
Continuance,
by *vicecomes*
non misit breve.

Award of *plu-*
ries.

— (to wit.) *Capias*, for *A. B.* against *C. D.* *Trespass*, at —, re-
turnable on —.

E. F. Attorney.
— 18—.

(§ 51.)
Præcipe for
capias not bail-
able, in C. P.

Prac. 154.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before our justices at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — they broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and have there this writ. Witness Sir *William Draper Best* knight, at *Westminster*, the — day of — in the — year of our reign.

(§ 52.)
Capias not
bailable, in
C. P.

Prac. 153, 4.

— (to wit.) *Capias*, for *A. B.* against *C. D.* *Trespass*, at —:
Case, for — *l.* upon promises, (or *Debt*, for — *l.*) returnable on —.
Oath for — *l.* by affidavit filed.

E. F. Attorney.
— 18—.

(§ 53.)
Præcipe for
bailable *capias*,
in C. P.

Prac. 154.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before our justices at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — they broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and also that the said *C. D.* may answer the said *A. B.* according to the custom of our court of Common Bench, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or, in debt, in a certain plea of debt on demand for — *l.*;) and have you there this writ. Witness, &c. (as above.)

(§ 54.)
Bailable *capias*,
in C. P.

Prac. 153, 4.

Ac etiam.
Prac. 153.

Bail by affidavit for — *l.*

E. F. Temple,

Plaintiff's attorney, (or agent.)

— 18—.

(§ 55.)
Indorsement
thereon.

Prac. 158, 9,
164.

(§ 56.)

Præcipe for
capias by con-
tinuance, in C. P.

Prac. 154.

(§ 57, 8.)

Præcipe for,
and writ of
testatum capias,
in C. P.

Prac. 154.

(§ 59, 60.)

Præcipe for,
and writ of
*non omittas capi-
as*, in C. P.

Prac. 154.

(§ 61, 2.)

Præcipe for,
and writ of
testatum capias,
into a county
palatine, in C. P.

Prac. 154.

Ac etiam.

Prac. 153.

(§ 63.)

Ac etiam, in as-
sumpt, at the
suit of execu-
tors, in C. P.

Prac. 153.

(§ 64.)

The like, at
suit of admi-
nistrators.

Prac. 153.

— (to wit.) *Capias* by continuance, for *A. B.* against *C. D.* &c.

(§ 51 or 53.)

— (to wit.) *Testatum capias*, for *A. B.* against *C. D.* &c. (§ 51 or 53.)

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you take *C. D.* &c. (as before, to the end of the mandatory part of the writ;) and whereupon our sheriff of —, at a certain day now past, returned to our justices at *Westminster*, that the said *C. D.* was not found in his bailiwick; whereas it is sufficiently testified in our said court, that the said *C. D.* doth run up and down, and secrete himself in your county; and have there this writ. Witness, &c. (63.)

— (to wit.) *Non omittas capias*, for *A. B.* against *C. D.* &c. (§ 51 or 53.)

George the Fourth, &c. (14.) To the sheriff of — greeting; We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and take *C. D.* &c. (§ 52 or 54.)

County palatine of —, (to wit.) *Testatum capias* for *A. B.* against *C. D.* &c. (§ 51 or 53.)

George the Fourth, &c. (14.) To — (59.) greeting: We command you, that by our writ under the seal of our said county palatine to be duly made, and to be directed to the sheriff of our said county palatine, you command the said sheriff, (or, if in *Durham*, that by our writ under the seal of your bishoprick to be duly made, and to be directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,) that he take *C. D.* and *Richard Roe*, if they be found in his bailiwick, and them safely keep, so that you may have their bodies before our justices at *Westminster*, on —, to answer *A. B.* of a plea wherefore, with force and arms, the close of the said *A. B.* at — they broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and also that the said *C. D.* may answer the said *A. B.* according to the custom of our court of Common Bench, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or, in debt, in a certain plea of debt on demand for — *l.*) and whereupon our sheriff of —, at a certain day now past, returned to our justices at *Westminster*, that the said *C. D.* was not found in his bailiwick; whereas it is sufficiently testified in our said court, that the said *C. D.* doth run up and down, and secrete himself in our said county palatine; (or, in *Durham*, “in your said bishoprick”;) and have there this writ. Witness, &c. (63.)

And also that the said *C. D.* may answer the said *A.* and *B.* as executors of the last will and testament of *E. F.* deceased, according to the custom of our court of Common Bench, in a certain plea of trespass on the case upon promises, to the damage of the said *A.* and *B.* as executors as aforesaid, of — *l.*

And also that the said *C. D.* may answer the said *A.* and *B.* as administrators of all and singular the goods, chattels and credits, which were

of *E. F.* deceased at the time of his death, who died intestate, according, &c. (§ 63.) in a certain plea of trespass on the case upon promises, to the damage of the said *A. and B.* as administrators as aforesaid, of — *l.* CHAP. VIII.

And also that the said *C. D.* may answer the said *A. and B.* as assignees of the estate and effects of *E. F.* a bankrupt, according to the force, form and effect of the statute concerning bankrupts, according, &c. (§ 63.) in a certain plea of trespass on the case upon promises, to the damage of the said *A. and B.* as assignees as aforesaid, of — *l.* (§ 65.)
The like, at
suit of assignees
of a bankrupt.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a certain plea of breach of covenant, to the damage of the said *A. B.* of — *l.* (§ 66.)
In covenant.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a certain plea of debt on demand for — *l.* (§ 67, 8, 9.)
In debt on bond,
recognizance,
or statute.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea of debt on recognizance. Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea of debt on statute.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea for detaining the goods and chattels, (*or*, deeds and writings,) of the said *A. B.* to the value of — *l.* (§ 70.)
In detinue.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea for converting and disposing of the goods and chattels of the said *A. B.* to the value of — *l.* (§ 71.)
In trover.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea of trespass, for taking and carrying away the goods and chattels of the said *A. B.* to his damage of — *l.* (§ 72.)
In trespass, de
bonis asportatis.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea of trespass and assault, to the damage of the said *A. B.* of — *l.* (§ 73.)
In trespass and
assault.
Prac. 153.

And also that the said *C. D.* may answer the said *A. B.* according, &c. (§ 63.) in a plea for assaulting, and having criminal conversation with *E.* the wife of the said *A. B.* to his damage of — *l.* (§ 74.)
In crim. con.
Prac. 153.

— (to wit.) The sheriff was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of the lord the king at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage, &c. and against the peace, &c. and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (*or*, in debt, in a certain plea of debt on demand for — *l.*) At which day comes here the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the several pleas aforesaid; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* does not come. (§ 75.)
Entry of *capias*
ad responden-
dum, in C. P.
Prac. 162.

(§ 76.)
Præcipe for venire facias ad respondendum.

Prac. 92. 155.
 157.

(§ 77.)
Writ of venire facias ad respondendum.

Prac. 92. 155.
 157, 8.

— (to wit.) *Venire facias.* *Case.* *A. B.* against *C. D.* returnable on —.

E. F. Solicitor.

Bridges.

Collett.

— 18—.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and cause *C. D.* to come before the barons of our Exchequer at *Westminster*, on —, (or, on the — day of — instant, or next coming,) to answer *A. B.* our debtor, of a plea of trespass on the case, (or as the plea is,) whereby he is less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thereof the said *C. D.* ought to answer; and have you there this writ. Witness Sir *William Alexander* knight, at *Westminster*, the — day of —, in the — year of our reign.

E. F. Solicitor.

Bridges.

Collett.

Rosc.

Notice to appear thereto (*as before*, p. 22.)

(§ 78.)
Alias, or pluries venire facias ad respondendum.

These writs (which are now seldom used, since the statute 7 & 8 Geo. IV. c. 71.) differ from the common form, merely by inserting the words “*as before*” or “*as oftentimes*” we have commanded you, &c.

(§ 79.)
Testatum venire facias ad respondendum.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not, &c. (*as above*, to “thereof the said *C. D.* ought to answer:”) And whereupon our sheriff of —, at a certain day now past, returned to the barons of our Exchequer at *Westminster*, that the said *C. D.* had nothing in his bailiwick, whereby he could be summoned; whereas it is testified in our said court, before the barons of our said Exchequer, that the said *C. D.* may be summoned in your bailiwick; and have you there this writ. Witness, &c. (*as above*.)

E. F. Solicitor, &c. (*as in* § 77.)

To *I. K.* and *L. M.* my bailiffs.

(§ 80.)
Sheriff's warrant, or summons, on venire, &c.

Prac. 155.

— (to wit.) Summon *C. D.* to appear before the barons of his majesty's Exchequer at *Westminster*, on — next coming, to answer *A. B.* his said majesty's debtor, of a plea of trespass on the case, (or as the plea is,) whereby he is the less able, &c. Dated the — day of — 18—.

E. F. Solicitor.

Bridges.

Collett.

— Esquire, sheriff.

(§ 81.)
Return of summons thereto.

Prac. 155.

The summoners of the within-named defendant are *I. K.* and *L. M.* my bailiffs.

The answer of — Esquire, sheriff.

(§ 82.)
The like, in a county palatine.

Prac. 155.

The answer of the right honourable —, Chancellor of the county palatine of *Lancaster*, to this writ.

By virtue of this writ, to me directed and delivered, by another writ, under the seal of the county palatine of *Lancaster* within-mentioned, and directed to the sheriff of the said county, I commanded the said sheriff, as within I am commanded; which said sheriff, to wit, — Esquire, in answer to the said last-mentioned writ, saith that the summoners of the within-named defendant are *I. K.* and *L. M.*

By the same Chancellor.

— to (wit.) *Distringas ad respondendum. Case. A. B. against C. D. returnable on —.*

E. F. Solicitor, &c. (as in § 76.)

— 18—.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and distrain *C. D.* by all his lands and chattels in your bailiwick, so that neither he nor any one for him do lay hands on the same, until we shall command you otherwise therein, and that you answer to us for the issues of the same, so that you have him before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass on the case, whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thereof the said *C. D.* ought to answer; and have you there this writ. Witness, &c. (66.)

E. F. Solicitor, &c. (as in § 77.)

These writs (which are now seldom used,) differ from the common form, merely by inserting the words “as before” or “as oftentimes” we have commanded you, &c.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not, &c. (as in the *distringas*, to “whereby, &c.”) And whereupon our sheriff of —, at a certain day now past, returned to the barons of our Exchequer at *Westminster*, that the said *C. D.* had nothing in his bailiwick, whereby he could be distrained; whereas it is testified in our said court, before the barons of our said Exchequer, that the said *C. D.* hath sufficient lands and chattels in your bailiwick, whereby he may be distrained; and have you there this writ. Witness, &c. (66.)

To *I. K.* and *L. M.* my bailiffs.

— (to wit.) Distrain *C. D.* by all his lands and chattels in my bailiwick, so that he appear before the barons of his majesty's Exchequer at *Westminster*, on — next coming, to answer *A. B.* his majesty's debtor, of a plea of trespass on the case, whereby he is the less able, &c. Dated this — day of — 18—.

E. F. Solicitor.

Bridges.

Collett.

Levy forty shillings.

— Esquire, sheriff.

The manucaptors of the within-named defendant are *I. K.* and *L. M.* my bailiffs. Issues forty shillings.

* The answer of — Esquire, sheriff.

The within-named defendant hath not any thing in my bailiwick, where or by which he can be distrained, or I can cause him to come, as I am within commanded; nor is the said defendant found in the same.

The answer of — Esquire, sheriff.

(§ 83.)

Præcipe for distringas ad respondendum.

Prac. 155. 157.

(§ 84.)

Writ of distringas ad respondendum.

Prac. 155. 157, 8.

(§ 85.)

Alias, or pluries distringas ad respondendum.

Prac. 155.

(§ 86.)

Testatum distringas ad respondendum.

Prac. 155.

(§ 87.)

Sheriff's warrant on distringas, &c.

Prac. 155.

(§ 88.)

Return of issues.

Prac. 155.

(§ 89.)

Return of nihil habet.

Prac. 155, 6.

(§ 90.)
Rule for in-
crease of is-
sues.

Prac. 155, 6.

— term, in the — year of the reign of king *George* the
Fourth.

— the — day of —.

A. B. against *C. D.**

Upon the motion of *Mr. William Reader*, of counsel for the plaintiff, and reading the writ of *distringas* issued in this cause, and the return made thereon by the sheriff of the county of —, and the affidavit of the said plaintiff; it is ordered, that the said sheriff return the sum of —*l.* issues, on the next *distringas* to be issued in this cause.

By the Court.

Rose.

To the sheriff of —, or his bailiffs in this case appointed.

A. B. plaintiff, against *C. D.* defendant.

(§ 91.)
Authority to
restore issues,
on appearance.

SIR,

The defendant having appeared, you are hereby authorized and required to restore to him the several issues levied by you, on process issued in this cause, between the said parties; for which this shall be your warrant. Dated the — day of — 18—.

E. F. Solicitor for the said plaintiff.

(§ 92.)
Rule for sale of
issues.

This rule, in the Exchequer, is similar to that in the King's Bench by *original*, for which *vide ante*, p. 31.

(§ 93.)
Præcipe for
subpœna ad re-
spondendum.
Prac. 92, 157.

— (to wit.) *Subpœna ad respondendum*, *A. B.* against *C. D.* re-
turnable on —.

E. F. Solicitor.

Bridges.

Collett.

— 18—.

(§ 94.)
Writ of *sub-*
pœna ad respon-
dendum.
Prac. 92, 156,
7, 8.

George the Fourth, &c. (14.) To *C. D.* (&c.) greeting: We com-
mand and strictly enjoin you, that all excuses apart, you appear before
the barons of our Exchequer at *Westminster*, immediately after service
hereof, (*in term; or, if sued out in vacation, any day in the next term,*)
to answer us, concerning certain articles then and there on our behalf to be
objected against you; and this you are in no wise to omit, under the pe-
nalty of one hundred pounds, which we shall cause to be levied to our use,
upon your goods and chattels, lands and tenements, if you neglect this
our present command. Witness Sir *William Alexander*, &c. (66.)

E. F. Solicitor, &c. (*as in last.*)

By the Barons.

At the instance of *A. B.* In the Office of Pleas.

Collett for the plaintiff.

To *C. D.* to appear in the Office of Pleas of his majesty's court of Ex-
chequer at *Westminster*, on — next coming, at the suit of *A. B.*

E. F. Solicitor, &c. (*as in* § 93.)

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

L. M. of — gentleman, maketh oath and saith, that he this depo-
nent did, on the — day of — instant, (*or last,*) personally serve the

(§ 95.)
Indorsement
thereon.

Prac. 158.

(§ 96.)
Label to be
served on de-
fendant.

Prac. 156.

(§ 97.)
Affidavit of ser-
vice of *subpœna*,
on defendant.

Prac. 156, 7.

* In the Exchequer of Pleas, the rules of Court are entitled of the term in which they are
made, adding the day of the week and month, with the names of the parties, as above.

above-named defendant, with a true copy of a writ of *subpœna ad respondendum*, appearing to this deponent to be regularly issued out of, and under the seal of this honourable court, against the said defendant, at the suit of the above-named plaintiff, and returnable on the ——— day of ——— last, (or instant,) by delivering the same to the said defendant, and at the same time shewing him the said original writ of *subpœna*.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

In the Exchequer of Pleas.

A. B. plaintiff,
and

C. D. E. F. & G. H. defendants.

(§ 98.)
The like, on several defendants.
Prac. 156, 7.

L. M. of ——— gentleman, maketh oath and saith, that he did, on the ——— day of ——— instant, (or last,) personally serve *C. D.* one of the defendants above-named, with a true copy of a writ of *subpœna*, &c. (*as in last, to return of writ*.) by delivering such copy to the said *C. D.* at his house in ———, and at the same time shewing him the said original writ: And that he this deponent did, on the ——— day of ——— instant (or last), also serve *E. F.* another of the defendants above-named, with a true copy of the said writ of *subpœna*, by delivering such copy to a person at the dwelling-house of the said *E. F.* situate at ——— in the county of ———, who informed this deponent she was the wife (or maid-servant) of the said *E. F.* and at the same time shewing her the said original writ: And that he this deponent did, on the ——— day of ——— instant, (or last,) also serve *G. H.* the other of the defendants above-named, with a true copy of the said writ of *subpœna*, by delivering such copy to *I. K.* at his dwelling-house at ———, with whom the said *G. H.* then lodged and resided, and at the same time shewing the said original writ to the said *I. K.*

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

—— (to wit.) Attachment, *A. B.* against *C. D.* returnable the ——— day of ———.

(§ 99.)
Præcipe for attachment.
Prac. 157.

E. F. Solicitor, &c. (*as in* § 93.)

George the Fourth. &c. (14.) To the sheriff of ——— greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and attach *C. D.* and *Richard Roe* by their bodies, wheresoever you shall find them in your bailiwick, and them safely and securely keep, so that you may have them before the barons of our Exchequer at *Westminster*, on the ——— day of ——— next coming, to answer us, concerning divers trespasses, contempts and offences by them lately done and committed; and that you have there then this writ. Witness, &c. (66.)

(§ 100.)
Writ of attachment, for non-appearance to *subpœna*.
Prac. 156.

E. F. Solicitor, &c. (*as in* § 93.)

By the Barons.

Issued the same day, (or, ——— day of ——— 18—.)

At the instance of *A. B.* for want of an appearance. In the Office of Pleas.

Collett for the plaintiff.

(§ 101.)
Indorsement thereon.
Prac. 158.

George the Fourth, &c. (14.) To ——— (59.) greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and to be directed to the sheriff of the same county, you command the said sheriff, (or, if in *Durham*, “ that by our writ, under the seal of your bishoprick to be duly made, and directed to the sheriff of the county

(§ 102.)
Writ of attachment, to a county palatine.
Prac. 157.

CHAP. VIII. of *Durham*, you cause the said sheriff to be commanded,") that he omit not by reason of any liberty of his county, but that he enter the same, and attach *C. D.* and *Richard Roe* by their bodies, wheresoever they shall be found in his bailiwick, and them safely and securely keep, so that he may have them, &c. (*as in the last*); and that the said sheriff certify to you what he shall do in the premises, so that you may certify the same to our barons, at the day and place aforesaid, together with the said sheriff's name, and this writ. Witness, &c. (66.)

E. F. Solicitor &c. (as in § 93.)

By the Barons,

Indorsement, as on the last writ.

— (to wit.) Writ of proclamation of rebellion, against *C. D.* at the instance of *A. B.* returnable on —,

E. F. Solicitor, &c. (as in § 93.)

(§ 103, 4.)
Præcipe for,
and writ of
attachment,
with clause of
proclamation.

Prac. 156, 7.

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and in all places in your bailiwick, where it shall seem to you most expedient, you cause public proclamation to be made, that *C. D.* upon pain of his allegiance from him to us due, do personally appear before the barons of our Exchequer at *Westminster*, on — next coming; and in the mean time we command you, as oftentimes we have commanded you, that you omit not by reason of any such liberty, but enter the same, and attach the said *C. D.* by his body, wheresoever you shall find him in your bailiwick, and him safely and securely keep, so that you may have him before the barons of our said Exchequer, at the day and place aforesaid, to answer us, concerning divers trespasses, contempts and offences, by him lately done and committed; and have you there then this writ. Witness, &c. (66.)

By several Writs returned; and by the Barons.

Issued the same day, (*or*, — day of — 18—.)

Indorsement as on the writ of attachment, ante, p. 69.

(§ 105.)
Return of *non est inventus*, to writ of proclamation.

Prac. 156, 7.

By virtue of this writ to me directed, I have caused public proclamation to be made in all places within my bailiwick, where it seemed most expedient, as I am within commanded: and I further certify, that the within-named *C. D.* is not found in my bailiwick.

The answer of — Esquire, sheriff.

(§ 106, 7.)
Præcipe for, and commission of rebellion.

Prac. 157.

Commission of rebellion, against *C. D.* at the instance of *A. B.* returnable on —.

E. F. Solicitor, &c. (as in § 93.)

George the Fourth, &c. (14.) To our beloved *J. K. &c. (the commissioners,)* greeting: Whereas *C. D.* who has been commanded by public proclamation made on our behalf, by the sheriff of our county of —, in divers places thereof, by virtue of our writ to him in that behalf directed, that he should, on pain of his due allegiance, personally appear before the barons of our Exchequer at *Westminster*, at a certain day now past, hath manifestly refused to obey our said command; we do therefore command you, and every of you, jointly and severally, that you omit not by reason of any liberty, but that you enter the same, and attach, or cause to be attached, the said *C. D.* wheresoever he shall be found within *England, Wales*.

or the town of *Berwick upon Tweed*, as a rebel, and contemner of our laws, so that you, or any one or more of you, may have him, or cause him to be had, before the barons of our Exchequer at *Westminster*, on — next coming, to answer to us, touching those matters which shall then and there be objected to him ; and further to do and receive in the premises, what our said court shall then and there consider of him in that behalf : Moreover, we give to all and singular our mayors, sheriffs, bailiffs, constables, and all other our officers, ministers and subjects, strictly in charge, that they aid and assist you in the execution thereof, as becometh them, on pain of our displeasure. Witness, &c. (66.)

By the remembrance roll ; by several Writs returned ;
and by the Barons. *Vincent.*

Indorsement as on the writ of attachment, ante, p. 69.

We humbly certify to the within-written barons, at the day and place within-mentioned, that the within-named *C. D.* is not found within *England*, the dominion of *Wales*, or the town of *Berwick upon Tweed*, so that we cannot have the said *C. D.* before the said barons, at the day and place within contained.

The answer of *J. K.* &c. the Commissioners within-named.

By virtue of this commission to us directed, we have attached the within-named *C. D.* by his body, which we have ready, as within we are commanded.

The answer, &c. (*as in last.*)

(§ 108.)
Return of *non est inventus*, to commission of rebellion.
Prac. 157.

(§ 109.)
Return of *attachiari fecimus*.
Prac. 157.

— (to wit.) *Quo minus, A. B.* against *C. D.* returnable on —.

E. F. Solicitor.

Bridges.

Collett.

— 18—.

(§ 110.)
Præcipe for writ of *quo minus*.
Prac. 92, 157.

George the Fourth, &c. (14.) To the sheriff of — greeting : We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *C. D.* and *Richard Roe*, wheresoever they shall be found in your bailiwick, and them safely keep, so that you may have their bodies, before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass, whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thereof they ought to answer ; and have you there this writ. Witness, &c. (66.)

E. F. Solicitor.

Bridges.

Collett.

Rose.

Pleas before the Barons of the Exchequer at *Westminster*, among the pleas of the term of —, (*the term in which the writ is returnable*), in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our lord 18—.

(§ 111.)
Writ of *quo minus*.
Prac. 92, 157, 8.

(§ 112.)
Entry of *quo minus*, with the sheriff's return of *non est inventus*, and award of *alias*.
Prac. 92, (c.) 162, 777.

— (to wit.) The sheriff was commanded, that he should omit not by reason of any liberty of his county, but that he should enter the same,

CHAP. VIII. and take *C. D.* and *Richard Roe*, wheresoever they should be found in his bailiwick, and them safely keep, so that he might have their bodies, before the barons of his majesty's Exchequer at *Westminster*, on the —— day of —— then instant, (*return of quo minus*), to answer *A. B.* his said majesty's debtor, of a plea of trespass, whereby he was the less able to satisfy his said majesty, the debts which he owed him at his said Exchequer, to his great damage, as he said he could reasonably shew that thereof they ought to answer; and that he should have there that writ: The same day was given to the said *A. B.* there, &c. At which day, before the barons of the said Exchequer at *Westminster* aforesaid, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, —— sheriff of the said county of ——, now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* doth not come: Therefore, as before, the said sheriff is commanded, that he omit not by reason of any liberty of his county, but enter the same, and take the said *C. D.* wheresoever he shall be found in his bailiwick, and him safely keep, so that he may have his body before the barons of his said majesty's Exchequer at *Westminster*, on —— next coming, to answer the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* here, &c.

Award of *alias*.

(§ 113.)
Docket paper.
Prac. 162.

—— (to wit.) Entry of *Quo minus*, between *A. B.* plaintiff and *C. D.* defendant, returnable on ——.

Bridges.

Collett.

CHAP. IX.

NOTICE to APPEAR, &c. to PROCESS *not* BAILABLE.

Mr. C. D.

YOU are served with this process, to the intent that you may by your attorney appear, (*if against man and wife, say, "for yourself and ——— your wife,"*) in his majesty's court of King's Bench at *Westminster*, (*or, by original, "wheresoever his said majesty shall be in England,"*) at the return thereof, being the ——— day of ——— next, (*or instant,*) in order to your defence in this action.

E. F. Temple.

—— 18—.

(§ 1.)
Notice to appear to process not bailable, in K. B.
Prac. 166, 7.

Mr. C. D.

You are served with this process, to the intent that you may by your attorney appear, in his majesty's court of Common Pleas at *Westminster*, at the return thereof, being the ——— day of ——— next, (*or instant,*) in order to your defence in this action.

E. F. Temple.

—— 18—.

(§ 2.)
The like, in C. P.
Prac. 166, 7.

Mr. C. D.

You are served with this process, to the intent that you may by your attorney appear, in the Office of Pleas of his majesty's court of Exchequer at *Westminster*, at the return thereof, being the ——— day of ——— 18—, in order to your defence in this action.

E. F. plaintiff's attorney,
(*or, clerk in court.*)

—— 18—.

(§ 3.)
The like, in the Exchequer.
Prac. 166, 7.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

You having been served with a copy of a bill of *Middlesex*, (*latital, capias, or quo minus, &c.*) at the suit of the above-named plaintiff *A. B.* on the ——— day of ——— last, to appear on the ——— day of ——— next, in his majesty's court of King's Bench (Common Pleas, *or* Exchequer) at *Westminster*, and the said process not being returnable, I do hereby give you notice not to appear thereto, there being a mistake in the said process. Dated this ——— day of ——— 18—.

(§ 4.)
Notice not to appear, when there is a mistake in the writ.

Yours, &c. *E. F. plaintiff's attorney, (agent, or clerk in court.)*

To Mr. C. D. the above defendant.

CHAP. X.

AFFIDAVITS to HOLD to BAIL; and WARRANT to ARREST.

(§ 1.)
Affidavit of
debt, by the
plaintiff.
Prac. 178. 182.

In the King's Bench, &c. (17.)

A. B. of —*, maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, in the sum of —*l.* for, &c. (*stating the nature of the debt, or cause of action, with certainty and precision, according to the following forms:*)

A. B.

Jurat.

Prac. 179, &c.
494, 5.

Sworn, &c. (*as in Chap. xix. § 7, 8. if the affidavit be made before a judge, or commissioner; or, if made before the officer who issues the process or his deputy, in the King's Bench †, then as follows:*)

Sworn at the bill of *Middlesex* (King's Bench, }
or filacer's) office, this — day of — 18—.

— (Officer's name.)

(§ 1. a.)
Form of oath,
taken by protest-
ant of the an-
cient church of
Scotland, and
jurat thereon.

I *A. B.* (being a protestant of the ancient church of *Scotland*,) do swear by God, and as I shall answer to God at the great day of judgment, that *A. B.* is my name, that the name subscribed is my hand-writing, and that the contents of this my affidavit are true.

Sworn at the filacer's office, *Temple, London*, this — day of —, the deponent professing himself a protestant of the ancient church of *Scotland*, and swearing, agreeably to the usage of that description of people, before me,

(§ 1 b.)
Form of inter-
preter's oath,
when affidavit
is made by a
foreigner, and
jurat thereon.
Prac. 180. 495.

You swear that you have, (*if already interpreted*), truly interpreted this affidavit to the deponent; and that you will truly interpret the oath to be taken by him.

So help you God.

Sworn at the filacer's office, *Temple, London*, the — day of —, by the deponent *A. B.* the contents of the above affidavit having been first read over and explained to him, in the — language, by *E. F.* of —, who was first sworn duly to interpret the same, before me, —.

(§ 2.)
Affidavit of
debt, by one of
several part-
ners.
Prac. 178.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* in the sum of —*l.* for, &c. (*as above.*)

E. the wife of *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* &c. (*as above.*)

(§ 3, 4.)
The like, by
plaintiff's wife,
clerk, or servant.
Prac. 178.

E. F. of — clerk (*or, servant*) to *A. B.* maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* &c. (*as above.*)

* The affidavit to hold to bail should state the *addition*, as well as place of abode, of the person making the same. *Prac.* 179.

† In the Common Pleas, the affidavit of debt is sworn before a judge, or at the filacer's office, in town, or before a commissioner in the country: In the Exchequer, it is sworn before a baron, or the master or his deputy, in town, or before a commissioner in the country.

In the King's Bench, &c. (17.)

A. B. of —, being one of the people called Quakers, solemnly affirms, that *C. D.* is justly indebted to this affirmant, in the sum of —*l.* for &c. (*as before.*)

Affirmed, &c. (*as directed in last page.*)

In this affidavit, it was formerly necessary to negative a tender of the debt, in notes of the Governor and Company of the Bank of *England*, or of *Ireland*; but now, since the restriction on cash payments under the bank acts have ceased, the affidavit is similar to that in other cases.

In the King's Bench, &c. (17.)

E. F. of —, maketh oath and saith, that he knows and is well acquainted with the hand-writing of *G. H.* Esquire, one of his majesty's justices of the peace, in and for the town of —, in that part of the united kingdom of *Great Britain* and *Ireland* called *Scotland*; and that the name of *G. H.* set and subscribed to the affidavit of *A. B.* hereunto annexed, is of the proper hand-writing of the said *G. H.* as this deponent verily believes.

Sworn, &c. (*as directed in last page.*)

For a certain messuage or tenement and premises with the appurtenances of this deponent, by him bargained sold and released to the said *C. D.* at his request.

For certain messuages, &c. (*describing the premises generally.*) of this deponent, by him bargained sold and surrendered to the said *C. D.* at his request.

For certain messuages, &c. (*as in last.*) of this deponent, by him bargained sold and assigned to the said *C. D.* at his request, for the remainder of a certain term of years therein.

For the use and occupation of a certain dwelling-house, (*or*, of a certain dwelling-house, farm and lands,) with the appurtenances, of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed.

For the use and occupation of divers rooms and apartments, in and parcel of a certain dwelling-house of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed.

For goods (*or*, a horse, &c.) sold and delivered by this deponent to the said *C. D.* and at his request.

For goods bargained and sold by this deponent to the said *C. D.* and by virtue of that bargain and sale delivered to one *E. F.* at the request of the said *C. D.*

For so much money, which the said *C. D.* promised and agreed to pay to this deponent, together with a certain horse of him the said *C. D.* in exchange for a certain horse of this deponent.

For meat, drink, washing, lodging, and other necessities, found and provided by this deponent for the said *C. D.* and at his request.

For meat, drink, washing, lodging, and other necessities, found and provided by this deponent for one *E. F.* (*or*, for divers persons,) at the request of the said *C. D.*

(§ 5.)

Affirmation of Quaker.

Prac. 178.

(§ 6.)

Affidavit of debt in *England*, to arrest in *Ireland*.

Prac. 181.

(§ 7.)

Affidavit of signature of *Scotch* magistrate.

Prac. 181.

(§ 8.)

For freehold premises, bargained and sold.

(§ 9.)

Copyhold premises, surrendered.

(§ 10.)

Leasehold premises, assigned.

(§ 11.)

Use and occupation of a house, &c.

(§ 12.)

The like, of rooms.

Prac. 184.

(§ 13.)

Goods, &c. sold and delivered.

(§ 14.)

Goods bargained and sold, &c.

(§ 15.)

Money agreed to be paid on an exchange of horses.

(§ 16, 17.)

Necessaries provided for defendant, or a third person.

(§ 18.)
Medicines, &c.

For divers medicines, and other necessary things, found and provided, administered, delivered and applied by this deponent, as an apothecary, for the said *C. D.* (and divers other persons,) and at his request.

(§ 19.)
Hire of horses,
&c.

Prac. 183, 4.

For the use and hire of divers horses mares and geldings, and of divers chaises and other carriages, (*or*, of certain lighters and other vessels, *or*, of certain household goods and furniture,) let to hire and delivered by this deponent to the said *C. D.* and at his request.

(§ 20.)
Horse-meat, &c.

For horse-meat, stabling, care and attendance, found provided and bestowed by this deponent, for in and about the feeding and keeping of divers horses mares and geldings, for the said *C. D.* and at his request.

(§ 21.)
Agistment of
cattle.

For the agisting, depasturing and keeping of divers cattle, by this deponent for the said *C. D.* and at his request.

(§ 22, 3.)
For the carriage
of goods by
land, or water.

For the carriage and conveyance of divers goods, wares, and merchandizes, carried and conveyed by this deponent, in certain carts and other carriages, (*or*, in certain boats and other vessels,) for the said *C. D.* and at his request.

(§ 24.)
For a passage
on board a ship.

For the passage of the said *C. D.* in and on board of a certain ship or vessel of this deponent (*or*, whereof this deponent then was master,) from — to —, and at his the said *C. D.*'s request.

(§ 25.)
Freight, &c.

For freight, primage and average, due and payable from the said *C. D.* to this deponent, upon for and in respect of certain goods, carried and conveyed by this deponent, in and on board of a certain ship or vessel, for the said *C. D.* and at his request.

(§ 26.)
Demurrage.

For the use of a certain ship or vessel of this deponent, (*or*, whereof this deponent is master,) retained and kept by the said *C. D.* with certain goods and merchandizes aboard thereof on demurrage, for a long space of time now elapsed, at the request of the said *C. D.*

(§ 27.)
Lighterage.

For the lighterage of certain goods, carried and conveyed in certain lighters and other vessels, by this deponent, for the said *C. D.* and at his request.

(§ 28.)
For warehouse-
room.

For warehouse-room, found and provided by this deponent, for in and about the stowing and keeping of certain goods and merchandize, stowed and kept in a certain warehouse of him this deponent, for the said *C. D.* and at his request.

(§ 29.)
For lighterage,
wharfage, and
warehouse-room.

For the lighterage, wharfage, and warehouse-room of divers goods, wares and merchandizes, by this deponent carried and conveyed in certain lighters and other vessels of him this deponent, and shipped and landed from and out of the same, and deposited and kept in and upon a certain wharf, and in certain warehouses and premises, of him this deponent, for the said *C. D.* and at his request.

(§ 30, 31.)
Work and la-
bour, generally,
or by plaintiff
and his ser-
vants, with
horses, &c.

For work and labour, done and performed by this deponent for the said *C. D.* and at his request.

For work and labour, done and performed by this deponent and his servants, and with horses carts and carriages, for the said *C. D.* and at his request.

(§ 32.)
Work and la-
bour, and ma-
terials.

For work and labour, done and performed, and materials found and provided by this deponent for the said *C. D.* and at his request.

For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, done and performed as the hired servant of the said *C. D.* and on his retainer.

(§ 33.)
Servant's wages.

For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, by him done and performed, as master and commander of a certain ship or vessel called —, of and for the said *C. D.* and on his retainer.

(§ 35.)
Captain's wages.

For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, done and performed as a mariner, of and belonging to a certain ship or vessel, whereof the said *C. D.* during the time of such service was master and commander, (*or, "if against the owner,"* a certain ship or vessel of the said *C. D.*) and for the said *C. D.* and on his retainer.

(§ 36.)
Seaman's wages.
Prac. 183.

For work and labour, done and performed by this deponent, as a surveyor, in and about the drawing of divers plans, elevations and sections of buildings, and the surveying and superintending the erection thereof, and in and about the admeasurement and valuation of certain works, and the payment of certain workmen's bills, for the said *C. D.* and in and about other the business of the said *C. D.* and at his request.

(§ 37.)
Work and labour as a surveyor.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as the factor and agent of and for the said *C. D.* in and about the selling and disposing of certain goods and merchandize for the said *C. D.* and in and about other the business of the said *C. D.* and at his request.

(§ 38.)
The like, as a factor.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as an insurance broker, in and about the writing, drawing, and making out of divers policies of insurance, of divers ships and vessels, goods wares and merchandizes; and in and about the causing and procuring of divers persons to insure divers sums of money on the said ships and vessels, goods wares and merchandizes, for the said *C. D.* and at his request.

(§ 39.)
The like, as an insurance broker.

For certain premiums of insurance, due and payable from the said *C. D.* to this deponent, upon for and in respect of this deponent's having underwritten divers policies of insurance, for and on the behalf and on account of the said *C. D.* for the insurance of divers large sums of money, on divers ships and vessels, goods wares and merchandizes, for the said *C. D.* and at his request.

(§ 40.)
For premiums of insurance.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as a schoolmaster, in and about the teaching and instructing of *E. D.* the infant son of the said *C. D.* (*or, of a certain infant,*) in reading, writing, arithmetic, good manners, and other useful and necessary qualifications and accomplishments, at the request of the said *C. D.*; and for divers books, pens, and other necessary things, by this deponent found and provided, and used and employed in and about that work and labour, for the said *C. D.* and at his like request; and also for meat, drink, washing, lodging, and other necessities, by this deponent found and provided for the said infant son of the said *C. D.* (*or, for the*

(§ 41.)
Work and labour as a schoolmaster.

CHAP. X.

said infant,) at the like request of the said *C. D.* ; and for money paid, laid out and expended, by this deponent, for the said *C. D.* and at his like request.

(§ 42.)

The like, as a surgeon and apothecary.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as a surgeon and apothecary, for the said *C. D.* and at his request, in and about the healing and curing of the said *C. D.* (and divers other persons,) of divers diseases, disorders and maladies, under which they had respectively laboured and languished ; and for divers medicines and other necessary things, found and provided, administered delivered and applied by this deponent on those occasions, for the said *C. D.* and at his like request.

(§ 43.)

The like, as an undertaker of funerals.

For work and labour, care diligence and attendance, done performed and bestowed, as an undertaker of funerals, by this deponent and his servants, in and about the funeral of one *E. F.* on the retainer and at the request of the said *C. D.* ; and for divers materials, and other necessary things, used and applied in and about the furnishing and conducting of the said funeral, found and provided by this deponent for the said *C. D.* and at his like request.

(§ 44.)

The like, as an attorney, and for fees, where a suit is carried on.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as the attorney and solicitor of and for the said *C. D.* and on his retainer, in and about the prosecuting, defending and soliciting of divers causes, suits and businesses for the said *C. D.* ; and for certain fees due and of right payable to this deponent, in respect thereof.

(§ 45.)

The like, for drawing deeds, &c.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, in and about the drawing, copying and engrossing of divers deeds and writings for the said *C. D.* and in and about other the business of the said *C. D.* and at his request.

(§ 46.)

Money lent.

For money lent and advanced by this deponent to the said *C. D.* and at his request.

(§ 47.)

Money paid.

For money paid, laid out and expended, by this deponent for the said *C. D.* and at his request.

(§ 48.)

Money had and received.

For money had and received by the said *C. D.* to and for the use of this deponent.

(§ 49.)

Money lent, laid out, and had and received.

For money lent and advanced, and paid laid out and expended by this deponent, to and for the use of the said *C. D.* and at his request ; and for other money had and received by the said *C. D.* to and for the use of this deponent.

(§ 50.)

Interest of money.

Præc. 185.

For money due and payable from the said *C. D.* to this deponent, for interest upon and for the forbearance of divers large sums of money, lent and advanced by this deponent to the said *C. D.* (or, "due and owing from the said *C. D.* to this deponent,") and by this deponent forborne, for divers long spaces of time now elapsed, at the request of the said *C. D.*

(§ 51.)

Account stated.

For so much money due from the said *C. D.* to this deponent, upon the balance of an account, stated and settled by and between this deponent and the said *C. D.*

On a promissory note, made by the said *C. D.* payable to this deponent on demand, (or, "at a certain day now past.") Or, thus :

(§ 52. 3.)
On a promissory
note, payee
against drawer.

On a promissory note, bearing date the — day of — 18—, and made by the said *C. D.* whereby the said *C. D.* promised to pay, — after the date thereof, to this deponent, or order, the sum of —*l.* for value received.

As indorsee of a promissory note, made by the said *C. D.* for the payment of the sum of —*l.* to one *E. F.* or order, at a certain day now past, and by him the said *E. F.* indorsed to this deponent.

(§ 54.)
Indorsee against
drawer.
Prac. 184.

As indorsee of a promissory note, bearing date, (&c.) and made by one *E. F.* whereby the said *E. F.* promised to pay, — after the date thereof, the sum of —*l.* to the said *C. D.* or order, and which said note the said *C. D.* indorsed to this deponent.

(§ 55.)
Indorsee against
indorser.

On a bill of exchange, drawn by one *E. F.* upon and accepted by the said *C. D.* for the payment of the sum of —*l.* to this deponent, at a certain day now past.

(§ 56.)
On a bill of ex-
change, payee
against acceptor.
Prac. 184.

As indorsee of a bill of exchange, drawn by one *E. F.* upon and accepted by the said *C. D.* for the payment of the sum of —*l.* to the said *E. F.* or his order, at a certain day now past, and by him the said *E. F.* indorsed to this deponent.

(§ 57.)
Indorsee against
acceptor.
Prac. 184.

On a bill of exchange, drawn by the said *C. D.* upon one *E. F.* for the payment of the sum of —*l.* to this deponent, at a certain day now past ; and which said bill of exchange hath been refused acceptance (or, payment) by the said *E. F.*

(§ 58.)
Payee against
drawer.
Prac. 184.

As indorsee of a bill of exchange, drawn by the said *C. D.* on one *E. F.* for the payment of the sum of —*l.* to the order of the said *C. D.* at a certain day now past, and by him the said *C. D.* indorsed to this deponent ; and which said bill of exchange hath been refused acceptance, &c. (*as in last.*)

(§ 59.)
Indorsee against
drawer.
Prac. 184.

As indorsee of a bill of exchange, drawn by one *E. F.* on *G. H.* for the payment of the sum of —*l.* to one *I. K.* or his order, at a certain day now past, and by the said *I. K.* indorsed to the said *C. D.* and by the said *C. D.* indorsed to this deponent ; and which said bill of exchange hath been refused acceptance (or payment) by the said *G. H.*

(§ 60.)
Indorsee against
indorser.
Prac. 184.

Upon and by virtue of a certain policy of assurance, whereby this deponent caused himself to be insured (amongst other things,) against loss by enemies, at and from — to —, with liberty to touch at —, on — pipes of wine, belonging to this deponent, valued at —*l.* including premiums of insurance, on board a certain ship or vessel called — ; and which said policy of assurance was and is underwritten by the said *C. D.* for the said sum of —*l.* And this deponent further saith, that the said wine hath been since captured and taken as prize, on board the said ship, during her said voyage, by certain enemies of our lord the king ; and that a total loss of one hundred *per cent.* on the said policy, has since been adjusted, and signed by the said *C. D.*

(§ 61.)
On a policy of
assurance, for
loss by capture.
Prac. 173.

A. B. of — maketh oath and saith, that by a memorandum in writing, bearing date, &c. (*date of memorandum.*) and signed by *C. D.* the

(§ 62.)
On a guarantie.
Prac. 173. 185.

CHAP. X.

said *C. D.* did undertake and agree, that if he this deponent would credit *E. F.* with goods to the value of —*l.** he the said *C. D.* would be answerable to him this deponent for the same, to that amount: And this deponent further saith, that he, confiding in the said undertaking and agreement, did afterwards sell and deliver to the said *E. F.* goods to the value of —*l.* and upwards, and did give him credit for the same: And although the time appointed for payment of the value of the said goods, by the said *E. F.* to this deponent, hath long since elapsed; yet the said *E. F.* (although often requested so to do,) hath not, nor hath the said *C. D.* as yet paid the said sum of —*l.* or any part thereof, to this deponent, and the same remains wholly due and unsatisfied. And this deponent further saith, that the said *C. D.* is justly and truly indebted to this deponent, in the said sum of —*l.* upon and by virtue of the said memorandum, and the undertaking and agreement therein mentioned.

(§ 63.)

On an agreement to guarantee the payment of a debt, due to the plaintiff from a third person, by instalments.

Prac. 173.

Upon and by virtue of certain articles of agreement, bearing date, &c. (*date of articles*), and made between *E. F.* of — and the said *C. D.* of the one part, and the said *A. B.* and certain other persons whose names were and are subscribed thereto, creditors of the said *E. F.* of the other part; whereby the said *E. F.* did agree to and with the said creditors, to pay and discharge the whole of their several and respective debts, (the exact amount of such debts being first ascertained and agreed on,) by four equal instalments of — in the pound each, at three, six, nine, and fifteen months, to commence and be computed from the — day of — then next. And in consideration of the said creditors agreeing to accept payment of their debts by such instalments as aforesaid, the said *C. D.* thereby agreed with the said creditors, to guarantee and be accountable to them for the punctual payment of the two last instalments, which would become due respectively on the — day of —, and the — day of —, then next following. And this deponent further saith, that the exact amount of the debt due and owing to him this deponent, hath been duly ascertained and agreed on, and that the same amounted to the sum of —*l.* And this deponent further saith, that the said sum of —*l.* being part of the two last instalments in the said agreement mentioned, is still wholly due and unpaid to this deponent.

(§ 64.)

On a promise to pay money, in consideration of marriage.
Prac. 185, u.

For money promised and agreed to be paid by the said *C. D.* to this deponent, for and in consideration of his having agreed to marry *E. D.* the daughter of the said *C. D.* and which said *E. D.* he this deponent did actually marry, at the request of the said *C. D.*

(§ 65.)

On a covenant, for the payment of money, and interest, &c.

Upon and by virtue of a certain indenture, bearing date, &c. (*date of indenture*), and made between the said *C. D.* of the first part, *E. F.* of the second part, and this deponent of the third part; whereby the said *C. D.* covenanted and agreed to pay to this deponent, two several sums of —*l.* and —*l.* and interest for the same, and certain costs and charges, amounting in the whole to the said sum of —*l.* at a certain time now

* The affidavit, in a case of this nature, should state the consideration for the defendant's undertaking. 1 Barn. & Cres. 108. but see 9 Price, 155.

past, and which said sum of —*l.* is now due and unpaid to this deponent. CHAP. X.

For principal and interest due to this deponent, upon and by virtue of certain articles of agreement, bearing date, &c. (*date of articles*,) and made between, &c. (*names of parties*,) whereby the said *C. D.* covenanted and agreed to pay to this deponent, the sum of —*l.* together with lawful interest for the same, at a certain day now past.

(§ 66.)
The like, another way, on articles of agreement.

For principal and interest due and owing from the said *C. D.* to this deponent, upon and by virtue of a certain indenture of mortgage, bearing date, &c. (*date of mortgage deed*,) and made between the said *C. D.* of the one part, and this deponent of the other part, whereby the said *C. D.* covenanted and agreed to pay the sum of —*l.* and interest to this deponent, at a certain day now past.

(§ 67.)
For mortgage money, and interest.

For the arrears of a certain yearly rent of —*l.* due and payable by the said *C. D.* to this deponent, upon and by virtue of a certain indenture of lease, bearing date, &c. (*date of lease*,) and made between this deponent of the one part, and the said *C. D.* of the other part.

(§ 68.)
For arrears of rent, on a lease.

For the arrears of a certain annuity or yearly sum of —*l.* granted by the said *C. D.* to this deponent, in and by a certain indenture tripartite, bearing date, &c. (*date of indenture*,) and made between the said *C. D.* of the first part, this deponent of the second part, and *E. F.* of the third part, for and during the natural lives of *G. H.* and *J. K.* and the natural life of the survivor of them; which said *G. H.* and *J. K.* are now respectively living.

(§ 69.)
For the arrears of an annuity.

Upon and by virtue of a certain charter-party of affreightment, bearing date, &c. (*date of charter-party*,) for and on account of the freight and hire of a certain brig or vessel called —, let to hire by this deponent to the said *C. D.* and by him taken and used, for and during a certain voyage from — to —, and from thence to —.

(§ 70.)
For freight, &c. on a charter-party.

A. B. of — maketh oath and saith, that by a certain indenture of apprenticeship, bearing date, &c. (*date of indenture*,) this deponent, by and with the consent of his father, *E. B.* of —, did put himself apprentice to *C. D.* of —, to learn his art, and with him after the manner of an apprentice to serve, from the day of the date thereof, unto the full end and term of seven years then next following, and fully to be complete and ended: And the said *C. D.* did thereby covenant, after the expiration of the first two years of the said term, during all the remainder thereof, to well and truly pay or cause to be paid unto this deponent, for and towards his maintenance, the sum of — weekly and every week. And this deponent further saith, that the said *C. D.* is justly and truly indebted to him this deponent, in the sum of —*l.* under and by virtue of the said indenture, for and on account of the said weekly sum of — therein mentioned; the said *C. D.* not having paid the said sum of —*l.* or any part thereof, to him this deponent.

(§ 71.)
For money covenanted to be paid by an indenture of apprenticeship.

The affidavits to hold to bail in debt on simple contract, are similar to those in *common assumpsit*; for which, *vide ante*, p. 75, &c.

(§ 72.)
In debt, on simple contract.

(§ 73.)

On a money
bond.

Prac. 173. 165.

For principal and interest due on a bond, bearing date, &c. (*date of bond,*) and made and entered into by the said *C. D.* to this deponent, in the penal sum of — *l.* conditioned for the payment of — *l.* and interest, at a certain day now past.

(§ 74.)

The like, for
the benefit of
an assignee of
the bond.

Prac. 182, 3.

— that *C. D.* is justly and truly indebted to *E. F.* in trust for this deponent, in the sum of — *l.* for principal and interest due on a bond, bearing date, &c. (*date of bond,*) and made and entered into by the said *C. D.* to the said *E. F.* in the penal sum, &c. (*penalty,*) and which bond hath been since duly assigned by the said *E. F.* to this deponent.

(§ 75.)

The like, an-
other way.

Prac. 182, 3.

A. B. of —, and *C. D.* of —, severally make oath and say ; and first this deponent *A. B.* for himself saith, that *E. F.* did by his bond, bearing date, &c. (*date of bond,*) become bound unto this deponent, in the penal sum of — *l.* conditioned for the payment of the sum of — *l.* and interest, at a certain day now past : And this deponent further saith, that he did by indenture, bearing date, &c. (*date of assignment,*) for a good and valuable consideration, assign, transfer and set over unto the said *C. D.* the said bond, and all monies due and to grow due thereon ; and that he this deponent hath not received the said sum of — *l.* and interest, or any part thereof, either before or since the said assignment : And this deponent *C. D.* for himself saith, that the said *E. F.* is justly indebted unto the said *A. B.* in trust for this deponent, as assignee as aforesaid, in the sum of — *l.* for principal and interest due on the said bond.

(§ 76.)

On an annuity
bond.

For the arrears of a certain annuity, due to this deponent, upon and by virtue of a bond, bearing date, &c. (*date of bond,*) and made and entered into by the said *C. D.* to this deponent, in the penal sum of — *l.* conditioned for the payment of the sum of — *l.* a year to this deponent, by the said *C. D.* during the life of the said *C. D.* (*or, if for the life of a third person, “ during the life of E. F. who is still living.”*)

(§ 77.)

On an arbitra-
tion bond.

Prac. 186.

Upon and by virtue of a certain writing obligatory, bearing date, &c. (*date of bond,*) and made and entered into by the said *C. D.* to this deponent, in the penal sum of — *l.* conditioned for the performance of an award, to be made as in the condition of the said writing obligatory is mentioned ; and also upon and by virtue of a certain award, made in pursuance of the said condition, bearing date, &c. (*date of award,*) whereby the said *C. D.* was awarded to pay the sum of — *l.* to him this deponent, on a certain day now past.

(§ 78.)

For money
awarded, under
an order of
nisi prius.

For so much money awarded and ordered to be paid by the said *C. D.* to this deponent, at a certain day now past, in and by a certain award in writing, bearing date, &c. (*date of award,*) and made by one *E. F.* in pursuance of a certain order of *nisi prius*, made by consent of this deponent and the said *C. D.* their counsel and attornies, in a certain cause lately depending in his majesty's court of —, wherein this deponent was plaintiff, and the said *C. D.* defendant ; and also in the further sum of — *l.* being the costs of the said cause, which by the said order of *nisi prius* were ordered to be in the discretion of the said arbitrator, and by the said award were awarded and ordered to be paid by the said *C. D.*

to this deponent; and which said sum of —*l.* and the costs aforesaid, **CHAP. X.**
are still wholly due and unpaid to this deponent.

Upon and by virtue of a judgment of this honourable court, (or, “of the court of —,”) for the said sum of —*l.* recovered by this deponent against the said *C. D.* in — term last past.

(§ 79.)
On a judgment.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, in the sum of —*l.* by force of the statute in such case made and provided, for money lost by this deponent to the said *C. D.* and by the said *C. D.* won of this deponent, by playing at cards, at different sittings, within the space of three months now last past, in sums exceeding the sum of 10*l.* at each and every of those sittings, contrary to the form of the statute aforesaid; and which said sum of —*l.* hath been paid by this deponent to the said *C. D.* and by him illegally received, within the said space of three months.

(§ 80.)
For money lost at play, on stat. 9 Ann. c. 14. § 2.
Prac. 172.

A. B. of — maketh oath and saith, that *C. D.* did, on the — day of — last past, receive of *E. F.* divers sums of money, in consideration whereof he the said *C. D.* agreed to repay to the said *E. F.* divers other sums of money, on certain chances and events, relative to the drawing of certain tickets in a certain *English* lottery, established by act of parliament, contrary to the form of the statute in such case made and provided; and the said *C. D.* hath thereby incurred — pecuniary penalties of 50*l.* each; and that this deponent intends forthwith to commence an action in this honourable court, against the said *C. D.* for the recovery of the said penalties.

(§ 81.)
For penalties, on the lottery act.
Prac. 187.

That *C. D.* hath in his possession, and unjustly detains from this deponent, a certain indenture of lease of this deponent, bearing date, &c. (*date of indenture*), and made between the said *C. D.* of the one part, and this deponent of the other part; and which said indenture is of the value of —*l.* and upwards to this deponent, who hath demanded the same of the said *C. D.*

(§ 82.)
In detinue, before the rule of II. 48 Geo. III.
Prac. 171. 186.

That *C. D.* hath possessed himself of divers goods and chattels of this deponent, of the value of —*l.* which he hath refused to deliver to this deponent, and hath converted the same to his own use.

(§ 83.)
In trover, for goods, before the same rule.
Prac. 171. 186.

That *C. D.* hath possessed himself of a certain promissory note of this deponent, bearing date, &c. (*date of note*), whereby one *E. F.* promised to pay, — after the date thereof, to this deponent or order, —*l.* for value received, which said note is still unpaid; and the said *C. D.* hath refused to deliver the said note to this deponent, and hath converted the same to his own use.

(§ 84.)
The like, for a promissory note.
Prac. 171. 186.

That *C. D.* hath possessed himself of a certain bond or writing obligatory of this deponent, bearing date, &c. (*date of bond*), and made and entered into by one *E. F.* to this deponent, in the penal sum of —*l.* conditioned for the payment of —*l.* and interest as therein mentioned, which said bond or writing obligatory is still wholly unsatisfied; and the said *C. D.* hath refused to deliver the said bond or writing obligatory to this deponent, and hath converted the same to his own use.

(§ 85.)
The like, for a bond.
Prac. 172. 186.

(§ 86.)

The like, for goods, since the rule, stating the facts specially.

Prac. 172. 186.

A. B. of —, and *E. F.* of —, severally make oath and say; and first, this deponent *A. B.* for himself saith, that on or about the — day of — last, he this deponent deposited the several articles of household furniture, wearing apparel, goods, chattels and effects, mentioned and set forth in the notice and demand hereunto annexed, being the property of this deponent, and of the value of —*l.* and upwards, with *C. D.* of —, to be safely kept by the said *C. D.* for this deponent, until he should have occasion for the same. And this deponent further saith, that he hath frequently demanded the said articles of household furniture, wearing apparel, goods, chattels and effects, of and from the said *C. D.* and caused the same to be demanded of him by other persons for this deponent; but the said *C. D.* hath hitherto refused to deliver up the same, or any part thereof, to this deponent, and unjustly detains the same. And this deponent *E. F.* for himself saith, that he did, on the — day of — instant, serve the said *C. D.* with a true copy of the notice hereunto annexed, by delivering the same to a person who told deponent she was the servant of the said *C. D.* at his the said *C. D.*'s house, situate at — aforesaid; but that the said *C. D.* hath not delivered the said articles of household furniture, wearing apparel, goods, chattels and effects, or any part thereof, to him this deponent.

(§ 87.)

Judge's order, to hold to bail thereon.

Prac. 172. 510.

Upon reading the affidavit of *A. B.* and *E. F.* I do order, that the writ, to be issued out of the court of our lord the king before the king himself, against *C. D.* at the suit of *A. B.* be indorsed to hold the said *C. D.* to special bail, for the sum of —*l.* Dated the — day of — 18—.

Tenterden.

(§ 88.)

For an assault, on board a ship.

Prac. 172.

A. B. of —, late a mariner on board the ship —, whereof *C. D.* was master and commander, and *E. F.* of —, late carpenter on board the said ship, severally make oath and say; and first, this deponent *A. B.* for himself saith, that on or about the — day of — last, whilst the said ship was lying in the harbour of —, the said *C. D.* came into the steerage of the said ship, where this deponent then was, and without any provocation whatever, laid hold of this deponent by the collar, and with great force and violence knocked him down, &c. (*here describe the circumstances of the assault:*) And this deponent *E. F.* for himself saith, that he was present at the time when the said *C. D.* so came into the steerage of the said ship as aforesaid, and did see the said *C. D.* assault and ill-treat the said *A. B.* in manner by him above set forth; and that he this deponent did not hear or see the said *A. B.* say or do any thing to the said *C. D.* to merit or deserve such ill treatment: And this deponent *A. B.* for himself further saith, that he hath been informed and verily believes, that the said *C. D.* is a person in good circumstances, and well able to make this deponent satisfaction for the said ill treatment; and he hath also been informed and verily believes, that the said *C. D.* will soon depart this realm; and that unless he shall be held to bail, this deponent may be deprived of that remedy to which he thinks himself entitled by the laws of this country.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

A. B. of —, who hath survived *E. F.* his late partner deceased, maketh oath and saith, that *C. D.* is justly and truly indebted unto this deponent, in the sum of — *l.* for goods sold and delivered, (*or*, for money lent, &c.) by this deponent and the said *E. F.* in his life time, to the said *C. D.* and at his request.

(§ 88.)
By a surviving partner.

A. B. of — maketh oath and saith, that *C. D.* who hath survived *E. F.* his late partner deceased, is justly and truly indebted unto this deponent, in the sum of — *l.* for goods sold and delivered, (*or*, money lent, &c.) by this deponent to the said *C. D.* and the said *E. F.* in his life time, and at their request.

(§ 90.)
Against a surviving partner.

E. the wife of *A. B.* of — maketh oath and saith, that *C. D.* was before and at the time of this deponent's intermarriage with the said *A. B.* justly and truly indebted unto her this deponent, and still is justly and truly indebted unto the said *A. B.* and this deponent his wife, in the sum of — *l.* for goods sold and delivered, (*or*, money lent, &c.) by this deponent, while she was sole and unmarried, to the said *C. D.* and at his request.

(§ 91.)
By baron and feme, for a debt due to the feme before marriage, for goods sold, &c.

A. B. of — maketh oath and saith, that *C. D.* and *E.* his wife, are justly and truly indebted unto him this deponent, in the sum of — *l.* for goods sold and delivered, (*or*, money lent, &c.) by this deponent to the said *E.* before her intermarriage with the said *C. D.* and at her request.

(§ 92.)
Against baron and feme, for a debt due from the feme before marring.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted unto this deponent, and *E. F.* as assignees of the estate and effects of *G. H.* a bankrupt, in the sum of — *l.* for goods sold and delivered, (*or*, money lent, &c.) by the said *G. H.* to the said *C. D.* and at his request, as appears by the books of account of the said *G. H.* in the possession of this deponent; and which said sum of — *l.* he this deponent verily believes to be due from the said *C. D.* to the estate of the said *G. H.*

(§ 93.)
By assignees of a bankrupt, for goods sold, &c. where the affidavit is made by one of them.
Prac. 182.

A. B. of —, against whom a commission of bankrupt hath been lately awarded and issued, and is now in prosecution, and *E. F.* of —, one of the assignees of the estate and effects of the said *A. B.* severally make oath and say; and first, this deponent *A. B.* for himself saith, that *C. D.* was at and before the date and suing forth of the said commission of bankrupt, justly and truly indebted unto this deponent, in the sum of — *l.* for goods sold and delivered, (*or*, for money lent, &c.) by this deponent to the said *C. D.* and at his request. And this deponent *E. F.* for himself saith, that he hath not, nor hath *G. H.* his co-assignee of the said estate and effects, to the knowledge or belief of this deponent, received the said sum of — *l.* or any part thereof, from the said *C. D.* but the same remains wholly due and owing from the said *C. D.* to the estate of the said bankrupt, as he this deponent verily believes.

(§ 94.)
The like, where the bankrupt joins in the affidavit.
Prac. 182.

A. B. of —, one of the assignees of the estate and effects of *E. F.* a bankrupt, maketh oath and saith, that *G. H.* did by his bond, bearing date, &c. (*date of bond*), become bound to *J. K.* in the sum of — *l.*

(§ 95.)
The like, for part of the money due on a

bond, assigned
to the bankrupt.
Prac. 182.

conditioned for the payment of —*l.* and interest, at a certain day now past : And this deponent further saith, that the said *J. K.* did, by indenture bearing date, &c. (*date of assignment*), for a good and valuable consideration, assign, transfer and set over the said bond, and all monies due and to grow due thereon, to the said *E. F.* who hath since become bankrupt ; and that he this deponent and *C. D.* are assignees of the estate and effects of the said *E. F.* : And this deponent further saith, that the said *G. H.* paid to the said *E. F.* before he became bankrupt, the sum of —*l.* in part of the money due on the said bond, by the condition thereof, but that the said *G. H.* hath not paid the residue thereof, either to this deponent, or, as he believes, to the said *J. K.* or the said *E. F.* or the said *C. D.* ; and that there is now due and owing on the said bond, by the condition thereof, the sum of —*l.* for principal and interest ; in which sum the said *G. H.* is now justly and truly indebted unto this deponent and the said *C. D.* as assignees as aforesaid.

(§ 96.)
By the surviving
assignee of
a bankrupt, on
a judgment.

A. B. of —, who hath survived *B. C.* which said *A. B.* and *B. C.* in the life-time of the said *B. C.* were assignees of the estate and effects of *E. F.* a bankrupt, according to the force form and effect of the statute concerning bankrupts, maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, as surviving assignee as aforesaid, in the sum of —*l.* upon and by virtue of a judgment of this honourable court, for the said sum of —*l.* recovered by this deponent, as surviving assignee as aforesaid, against the said *C. D.*

(§ 97.)
By an executor,
or administrator,
for goods sold,
&c.

Prac. 182.

A. B. of —, executor of the last will and testament of *C. D.* deceased, (*or*, “ administrator of all and singular the goods, chattels and credits, which were of *E. F.* deceased, at the time of his death, who died intestate,”) maketh oath and saith, that *C. D.* is justly and truly indebted unto this deponent, as executor (*or* “ administrator”) as aforesaid, in the sum of —*l.* for goods sold and delivered, (*or*, “ money lent,” &c.) by the said *E. F.* in his life-time to the said *C. D.* and at his request ; as appears by the books of the said *E. F.* and as he this deponent verily believes.

(§ 98.)
By executors of
an executor, for
money lent.

Prac. 182.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* (he this deponent and the said *E. F.* being executors of the last will and testament of *G. H.* deceased, which said *G. H.* in his life-time, and at the time of his death, was executor of the last will and testament of *J. K.* deceased,) in the sum of —*l.* for money lent and advanced by the said *J. K.* in his life-time to the said *C. D.* as appears by the books of the said *J. K.* and as he this deponent verily believes.

(§ 99.)
By executors of
a surviving
executor, on a
money bond.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to *E. F.* and *G. H.* as executors of the last will and testament of *J. K.* deceased, which said *J. K.* in his life-time, and at the time of his death, was surviving executor of the last will and testament of *L. M.* deceased, in the sum of —*l.* for principal and interest due on a bond, bearing date, &c. (*date of bond*.) and made and entered into by the said

C. D. to the said *L. M.* deceased in his life-time, in the penal sum of — *l.* and interest, at a certain day now past.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* as administrators of all and singular the goods chattels and credits which were of *G. H.* deceased, at the time of his death, left unadministered by *J. K.* also deceased, which said *J. K.* was executor of the last will and testament of *L. M.* deceased, with the will of the said *L. M.* annexed, in the sum of — *l.* and upwards, for the arrears of a certain annuity or yearly sum of — *l.* granted by the said *C. D.* to the said *L. M.* in his life-time, for and during the natural life of him the said *C. D.* and secured by a certain bond or obligation, bearing date, &c. (*date of bond,*) and made and entered into by the said *C. D.* to the said *L. M.* in the penal sum of — *l.* conditioned for the payment of the said annuity.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to *E. F.* and *G. H.* as executors of the last will and testament of *J. K.* deceased, in trust for this deponent, in the sum of — *l.* for principal and interest due on a certain indenture of mortgage, bearing date, &c. (*date of mortgage,*) and made between the said *C. D.* of the one part, and the said *J. K.* in his life-time of the other part, whereby the said *C. D.* covenanted and agreed to pay the sum of — *l.* and interest, (whereof the said sum of — *l.* is parcel,) to the said *J. K.* at a certain time therein mentioned, and now past; and which said mortgage, and the money due thereon, have been since duly assigned by the said *J. K.* to him this deponent.

A. B. of —, one of the executors of the last will and testament of *E. F.* deceased, maketh oath and saith, that *C. D.* is justly and truly indebted unto this deponent and *G. H.* as executors of the last will and testament of the said *E. F.* in the sum of — *l.* upon and by virtue of a judgment of this honourable court, for the said sum of — *l.* recovered by the said *E. F.* in his life-time against the said *C. D.*; and which said judgment is still in full force and unsatisfied, as appears by the record of the said judgment, and as he this deponent verily believes.

Upon and by virtue of a certain judgment, recovered by this deponent, in this honourable court, against the said *C. D.* as administrator of *E. F.* deceased, in — term last past; and that the sheriff of —, to a writ of *fieri facias* issued upon the said judgment, hath returned *nulla bona*, and a *devastavit* by the said *C. D.* of the effects of the said *E. F.* deceased, to the amount of the said sum of — *l.* (*the sum sworn to.*)

— (to wit.) — Esquire, sheriff of the county aforesaid, to the keeper of the gaol of the said county, and also to *G. H.* and *J. K.* my bailiffs in the said county, greeting: By virtue of a precept, called a bill of *Middlesex*, (or, of a writ of our sovereign lord the king, to me directed,) —

(§ 100.)
By administrators
of an executor,
on an annuity
bond.

(§ 101.)
For mortgage
money, by exe-
cutors of the
mortgagee, for
the benefit of
an assignee.

(§ 102.)
By executors,
on a judgment
recovered by the
testator.
Prac. 182.

(§ 103.)
Against an ad-
ministrator, on
a judgment by
plaintiff, after
a *devastavit* re-
turned.

(§ 104.)
Warrant to ar-
rest, in *K. B.* or
C. P.
Prac. 217.

CHAP. X.

I command you, and every of you, jointly and severally, that you or one of you take *C. D.* if he shall be found in my bailiwick, and him safely keep, so that I may have his body before the lord the king at *Westminster*, on — next after —, (or, by original in *K. B.* "on — wheresoever the said lord the king shall then be in *England*;" or, in *C. P.* "before the justices of the said lord the king at *Westminster*, on —,") to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, (or, as the *ac etiam* is,) according, &c. (or, by original in *K. B.* "to answer *A. B.* of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.*" or as the plea is; or, in *C. P.* "to answer *A. B.* of a plea of trespass, and also of a plea, &c." as in the writ :) Hereof fail not. Given under the seal of my office, this — day of — 18—.

By the same sheriff.

Indorsement
thereon.

Bail for — *l.*

E. F. attorney.

Writ dated the — day of — 18—.

Beware the defendant is not privileged, or protected.

This warrant is allowed for one defendant, and no more; and to be executed by no bailiffs, but those who have given the said sheriff security.

— (to wit.) — Esquire, sheriff, &c. (as in the last :) By virtue of the king's writ to me directed, I command you, and each and every of you, jointly and severally, that you or any of you omit not by reason of any liberty of my bailiwick, but enter the same, and take *C. D.* if he shall be found in my bailiwick, and him safely keep, so that I may have his body before the barons of the king's Exchequer at *Westminster*, on — next coming, to answer *A. B.* the king's debtor, of a plea of trespass, whereby, &c. (as in p. 71. on a *quo minus*; or, on a writ of attachment, "to answer the lord the king, concerning divers trespasses, contempts and offences, by him lately done and committed.") Given under the seal of my office, this — day of — 18—.

If on an attachment, say: At the instance, &c. (as before, p. 68. § 95.)

Writ issued the — day of — 18—.

Bail for — *l.*

— Esquire, sheriff.

E. F. Solicitor.

Bridges.

Collett.

Beware that the defendant is not privileged, or protected.

— (to wit.) — Esquire, sheriff, &c. (as before :) By virtue of the king's writ to me directed, I command you, and each and every of you, jointly and severally, that you or any of you omit not by reason, &c. (as in last,) but that you or one of you cause public proclamation to be made, in all places within my bailiwick, that *C. D.* do upon his allegiance, personally appear before the barons of the king's Exchequer at *Westminster*, on — next coming; and in the mean-time, if you can find the said *C. D.* that you attach him by his body, so that I may have him before the aforesaid barons, at the day and place aforesaid, to answer his majesty, concerning divers trespasses, contempts and offences, by him

(§ 105.)

The like, in the
Exchequer, on
a bailable *quo
minus*, or writ
of attachment.

Prac. 217.

(§ 106.)

The like, on a
pluries capias,
with a clause of
proclamation.

Prac. 217.

lately done and committed: Hereof fail not. Given under the seal of my CHAP. X.
office, the —— day of —— 18—.

At the instance of *A. B. &c. (as before, p. 68. § 95.)*

Writ issued the —— day of —— 18—.

Bail for ——*l.*

—— Esquire, sheriff.

E. F. Solicitor, &c. (as in last.)

CHAP. XI.

BAIL BOND, &c.

(§ 1.)
Bail bond to the
sheriff, in K. B.
Prac. 224.

KNOW all men by these presents, that we *C. D.* of —, *E. F.* of —, and *G. H.* of —, are held and firmly bound to — Esquire, sheriff of the county of —, in the sum of —*l.* (*double the sum indorsed on the writ,*) of lawful money of *Great Britain*, to be paid to the said sheriff, or his certain attorney, executors, administrators or assigns; for which payment, well and truly to be made, we bind ourselves, and each of us for himself, in the whole, our and every of our heirs, executors and administrators, firmly by these presents: Sealed with our seals. Dated the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

The condition of this obligation is such, that if the above bounden *C. D.* do appear before our sovereign lord the king at *Westminster*, on —, (*or, by original in K. B. "on — wheresoever, &c."*) to answer *A. B.* of a plea of trespass, and also to a bill, &c. (*as in the ac etiam,*) according, &c. (*or, by original in K. B. "to answer A. B. of a plea of, &c." as the plea is,*) then this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered, (being first }
duly stamped,) in the presence of, }

—.

—.

(§ 2.)
The like, in
C. P.
Prac. 224.

In the Common Pleas, the condition of the bond is, to appear before his majesty's justices at *Westminster*, on —, to answer *A. B.* of a plea of trespass, &c. (*or, as the plea is.*)

(§ 3.)
The like, in the
Exchequer.
Prac. 224.

In the Exchequer, the condition of the bond, on a writ of *quo minus*, is to appear before the barons of his majesty's court of Exchequer at *Westminster*, on — next coming, to answer to *A. B.* the king's debtor, of a plea of trespass, whereby he is the less able, &c. (71.); or, on process for contempt, to appear before the barons, &c. (*as before*, p. 88. § 106.) to answer our said lord the king, of divers trespasses, contempts and offences, by him lately done and committed.

(§ 4.)
Affidavit for de-
fendant to ob-
tain out of court
money deposited

In the King's Bench, &c. (17.) *A. B.* plaintiff, &c. (*id.*)

I. K. of —, clerk to *G. H.* of — gentleman, attorney for the above-named defendant, maketh oath and saith, that the said defendant, on or about the — day of — last, was arrested by an officer of the sheriff

of —, at the suit of the above-named plaintiff, by virtue of a certain writ of —, issuing out of this honourable court, returnable in —, in this present — term, and indorsed for bail for —*l.*; and that the said defendant thereupon, in lieu of giving bail to the said sheriff, deposited with the sheriff's officer aforesaid, the said sum of —*l.* being the sum indorsed on the writ, together with the sum of *ten* pounds, to answer costs, and also the further sum of —*l.* for the king's fine, (*if any*): And this deponent further saith, that he hath searched at the office of signer of the writs (*in K. B. or, in C. P. "of the prothonotaries"*) of this honourable court, and finds that the said sheriff has paid the said several sums into the hands of the said officer, (*or officers,*) except a deduction of —, (*if any*): And this deponent further saith, that bail above has since been duly put in for the defendant in this action, and duly perfected, (*or, if the defendant has been rendered, instead of the last sentence, insert the following one: "And this deponent further saith, that the said defendant hath been since duly rendered in discharge of his bail in this action, at the suit of the above-named plaintiff."*)

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(*As in the last, to the end of the statement of the money being paid into court, and then as follows:*) And this deponent further saith, that bail above has not been put in for the defendant in this cause, (*or, "that bail above has been put in for the defendant in this cause, but that the same has not been perfected."*)

— on (*or next after*) —, &c. (11.)

B. } Upon reading the rule made in this cause, on —, the affidavit of
v. } I. K. and no cause being shewn to the contrary, it is ordered, that
D. } the sum of —*l.* paid into the hands of the sheriff of the county
of —, by the defendant for the debt, on his arrest in this cause, in lieu of bail, and since brought into court by the said sheriff, pursuant to the statute in that case made and provided, be paid out of court to the defendant, or his attorney; the said defendant having put in and perfected bail, (*or, having surrendered himself to the custody of —,*) in this action. Upon the motion of Mr. Robert Alderson. By the Court.

B. } Upon reading the rule, &c. (*as in last.*) It is ordered, that the
v. } sum of —*l.* paid into the hands of the sheriff of the county of
D. } —, by the defendant, on his arrest in this cause, in lieu of bail, and since brought into court by the said sheriff, pursuant to the statute in that case made and provided, be paid out of court to the plaintiff or his attorney; together with such sum as the master shall allow for costs on taxation, out of the sum of *ten* pounds, deposited and brought into court as aforesaid, for the said costs; the said defendant not having put in and perfected bail. Upon the motion of Mr. Eaton. By the Court.

by him with sheriff, on stat. 43 Geo. III. c. 46. § 2.

Prac. 227, 8.

(§ 5.)
The like, for plaintiff to obtain it out of court.

Prac. 229.

(§ 5. a.)
Rule for defendant to take money out of court, under the above statute, in K. B.

Prac. 227, 8.

(§ 6.)
Rule for plaintiff to take money out of court thereon.

Prac. 229.

CHAP. XII.

APPEARANCE, and BAIL to the ACTION.

(§ 1.)
Præcipe for
appearance by
original, in
K. B. or C. P.
Prac. 238.

— (to wit.) Appearance for *C. D.* at the suit of *A. B.* to a *capias*, returnable before the lord the king on —, wheresoever, &c. (or, in *C. P.* before his majesty's justices at *Westminster*, on —.)

E. F. attorney.
— 18—.

(§ 2.)
Entry of com-
mon appear-
ance by origi-
nal, in K. B.
Prac. 238.

— (to wit.) The sheriff was commanded, that he should take *C. D.* late of —, if, &c. and him safely keep, so that he might have his body before the lord the king, on — wheresoever, &c. to answer to *A. B.* of a plea, &c. (as in the *capias*, to the words "as it is said.") And the said *C. D.* by *E. F.* his attorney, prays that his appearance thereupon may be recorded by the court here; and it is recorded, &c.

(§ 3.)
Common bail-
piece, by bill,
in K. B.
Prac. 240.

— term, in the — year of the reign of king *George* the Fourth. *Ellenborough.*

— (to wit.) *C. D.* having been served with process, is delivered to *John Doe*, of — yeoman,
and
Richard Roe, of the same place,
E. F. attorney.
— 18—.

at the suit of *A. B.*

If common bail be filed by the plaintiff, according to the statute, these words should be written on the bail-piece, "Filed according to the statute."

(§ 4.)
Affidavit of
service of pro-
cess against
the person.
Prac. 241. 492.

In the King's Bench, &c. (17.) *A. B.* plaintiff, &c. (*id.*)

E. F. of — gentleman, maketh oath and saith, that he this deponent did, on the — day of — instant, (or last,) personally serve the above-named defendant, with a true copy of a bill of *Middlesex*, (or *latitat*, or *writ of capias ad respondendum*, or *quo minus*, &c.) which appeared to this deponent to have been regularly issued out of this honourable court, against the said defendant, at the suit of the above plaintiff, and returnable before the lord the king at *Westminster*, on — next after —; (or, by original in *K. B.* on — wheresoever, &c.; or, in *C. P.* before his majesty's justices at *Westminster*, on —; or, in the *Exchequer*, before the barons of his majesty's *Exchequer* at *Westminster*, on — next coming;) under which said copy was written an *English* notice to the said defendant, of the intent of such service, pursuant to the statute in such case made and provided.

E. F.

Sworn, &c. (as in Chap. xix. § 7, 8. if the affidavit be made before a judge, or commissioner; or, if made before the officer for entering common appearances, then as follows:)

Jurat, in K. B. or C. P. *Prac.* 492, 494.

Sworn (in the King's Bench,) at the King's Bench Office, or, (by original,) at the filacer's office, Pump Court, (or, in the Common Pleas, at the filacer's office, Elm Court, or Hare Court,) Temple, this — day of — 18—, before — (Officer's name.)

In the Exchequer, there being no particular officer for entering common appearances, the affidavit is sworn before a baron in town, or commissioner in the country.

— on (or, next after) —, &c. (11.)

B. } It is ordered, that the defendant have leave to pay into court the sum
v. } of — l. for the debt, and the sum of — l. being the amount of the
D. } king's fine (if any,) upon the original writ, and the further sum of
twenty pounds as a security for costs, making together the sum of — l.
to abide the event of this cause, or the further order of this court; and
thereupon that the defendant file common bail, or enter a common appearance, instead of putting in and perfecting special bail, pursuant to the statute in that case made and provided; upon notice of the rule being given to the plaintiff. Upon the motion of Mr. Nott. By the Court.
In the King's Bench.

(§ 4. a.)
Rule for paying money into court, in lieu of special bail, on stat. 7 & 8 Geo. IV. c. 71. § 2. in K. B. *Prac.* 244, 5.

— term, &c. (32.)

Ellenborough.

— (to wit.) C. D. is delivered to bail, on a *capi corpus*, to

E. F. of —,

Oath — l.

and

L. M. attorney.

G. H. of —,

at the suit of A. B.

(§ 5.)
Special bail-piece, by bill, in K. B. *Prac.* 250.

Taken and acknowledged condition-
ally, at my chambers, in *Serjeant's Inn*,
Chancery Lane, this — day of —
18—, before me, —.

In the King's Bench.

— term, &c. (32.)

Ellenborough.

— (to wit.) C. D. now a prisoner in the prison of the marshal of the Marshalsea, (or, in the prison of the Fleet, or, custody of the sheriff of —,) is delivered to bail to E. F. &c. (as above.)

Taken and acknowledged, &c. (as above.)

In the King's Bench, (or Common Pleas.)

— term — Geo. IV.

C. D. } —* (to wit.) *Capias* (or, *testatum capias* from —*) into
ats. } —, for — l. *Assumpsit*, (or, as the action is :)
A. B. } Oath — l.

Bail E. F. of —, and G. H. of —. L. M. defendant's attorney.

(§ 6.)
The like, when defendant is in custody. *Prac.* 250, 279.

(§ 7.)
Note in writing of special bail for filacer, in K. B. or C. P. *Prac.* 250, 51.

The county into which the *capias* issued.

(§ 8.) In the King's Bench.

Filacer's entry,
of special bail
by original, in
K. B.

Prac. 250.

— term, &c. (32.)

— (to wit.) *Capias* (or, *testatum capias*, from —) into —, against *C. D.* late of —, at the suit of *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (or, *as the plea is.*)

Bail, *E. F.* of —, and *G. H.* of —.

Each of whom is bound in — *l.* *L. M.* attorney for defendant.

Taken and acknowledged, &c. (*as in* § 5.)

(§ 9.)
The like, in
C. P.

Prac. 251.

In the Common Pleas.

— term, &c. (32.)

— (to wit.) *Capias*, (or, *testatum capias*, from —) into —, against *C. D.* late of —, at the suit of *A. B.* for — *l.* upon promises, (or, *as the plea is.*) returnable on —.

Oath for — *l.*

The bail are, *E. F.* of —,

and

G. H. of —.

Each of whom is bound in — *l.* *L. M.* attorney for defendant.

Taken and acknowledged, &c. (*as in* § 5.)

(§ 10.)

Prac. 251.

The form of the bail-piece in C. P. if the filacer cannot attend, is similar to the last.

(§ 11.)

Filacer's entry,
and bail-piece,
when defendant
is in custody.

Prac. 251.

When defendant is in custody, he is described in the filacer's entry, and bail-piece, as "C. D. late of —, but now a prisoner in the prison of the marshal of the Marshalsea," (or, "in the prison of the Fleet, or custody of the sheriff of —," as the fact is.) at the suit of A. B. &c. (as in last but one.)

(§ 12.)

Recognition
of bail by bill,
in K. B.

Prac. 250.

Ye (naming the bail,) do jointly and severally undertake, that if C. D. shall be condemned in this action, at the suit of A. B. he shall satisfy the costs and condemnation, or render himself to the custody of the marshal of the Marshalsea of the court of King's Bench, or ye will do it for him.

Are ye content?

(§ 12. a.)

The like, by original, in K. B.

Prac. 251.

*Ye (naming the bail,) jointly and severally acknowledge to owe unto A. B. the plaintiff in this cause, the sum of — *l.* (double the sum sworn to,) to be levied on your and each of your goods and chattels, lands and tenements, to the use of the said plaintiff, on condition that if C. D. be condemned in this action, he shall answer the condemnation money, or render himself to the custody of the marshal of the court of King's Bench; and if he fail so to do, ye will do it for him.*

Are ye content?

(§ 13.)

Notice of bail
being put in, in
K. B. or C. P.

Prac. 253.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

Take notice, that special bail was this day put in (*if by original, in K. B. or C. P. say, "put in with the filacer,"*) for the defendant in this cause, before the honourable Mr. Justice —, at his chambers in *Serjeant's Inn, Chancery-lane, London*; and the names and additions of such bail are, *E. F.* of —, and *G. H.* of —. Dated the — day of — 18—.

Your's &c.

To Mr. *J. K.* plaintiff's attorney.

L. M. defendant's attorney.

If the bail in K. B. are the *same* as to the sheriff, then add, "and they are the same as are bail to the sheriff." CHAP. XII.

In the King's Bench, (or Common Pleas.) *A. B. plaintiff, &c. (17.)*

(§ 14.)

Take notice, that special bail was this day put in (*adding, if by original, in K. B. or C. P. "with the filacer,"*) for the defendant in this cause, now a prisoner in the prison of the marshal of the Marshalsea, (*or, in the prison of the Fleet, or, in custody of the sheriff of —,*) at the suit of the above-named plaintiff, before the honourable Mr. Justice —, at his chambers in *Serjeant's Inn, Chancery-lane, London*; and the names and additions of such bail are *E. F. of —*, and *G. H. of —*; and that the said bail will, on — next, justify themselves in open court, at *Westminster-hall* in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated, &c. (*as in last, with the like subscription and direction.*)

Notice of putting in and justifying bail, when defendant is in custody.

Prac. 279.

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

(§ 15.)

Take notice, that special bail will be put in for the defendant in this cause, on — next, in open court at *Westminster*; and that the names of the bail will be, *E. F. of —* and *G. H. of —*; and that they will at the same time justify themselves as good and sufficient bail for the said defendant.

The like, in the Exchequer.

Prac. 283.

Your's, &c.

L. M. defendant's clerk in court.

To Mr. *I. K.* plaintiff's clerk in court.

— term, &c. (32.)

— (to wit.) *C. D.* of — is delivered to bail, on a *cepi corpus*, to

E. F. of —,

and

G. H. of —,

at the suit of *A. B.*

(§ 16.)

Special bail-piece, before a commissioner, in K. B.

Prac. 251.

Oath — *l.*

L. M. attorney for defendant.

Taken and acknowledged conditionally, at
—, in the county of —, the — day of
— 18—. before me, — a commissioner.

The bail are, *E. F. of —*,

and

G. H. of —.

Each of them in — *l.*

L. M. attorney for defendant.

Taken and acknowledged, &c. (*as in last.*)

(§ 17.)

The like, in C. P. to be written on a copy of the writ on parchment.

Prac. 251.

In the Exchequer of Pleas.

— term, &c. (32.)

(§ 18.)

The like, in the Exchequer.

— (to wit.) *C. D.* is delivered to bail, on a *cepi corpus*, &c. (*as in the King's Bench.*)

Oath for — *l.* and upwards.

— defendant's solicitor.

L. M. clerk in court.

Taken and acknowledged, &c. (*as in § 16.*)

E. F. G. H.

CHAP. XII.

And note, that in the Exchequer, the bail sign the bail-piece ; but not in the King's Bench, or Common Pleas.

(§ 19.)
Recognizance
of bail, before a
commissioner,
in C. P.

Prac. 251.

Ye (*naming the bail*), do severally acknowledge to owe unto *A. B.* the sum of — *l.* apiece, to be levied upon your several goods and chattels, lands and tenements, upon condition, that if *C. D.* be condemned in the said action, he shall pay the condemnation, or render himself a prisoner to the *Fleet* for the same ; and if he fail so to do, ye (*naming the bail*), do undertake to do it for him.

(§ 20.)
Affidavit of
caption of bail,
before a com-
missioner.

Prac. 252.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

I. M. of — maketh oath and saith, that the recognizance of bail or bail-piece hereunto annexed, was duly taken and acknowledged by *E. F.* of —, and *G. H.* of —, the bail therein named, before — Esquire, the commissioner who took the same, in this deponent's presence, the — day of — instant, (*or last past.*)

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

L. M.

(§ 21.)
Notice of the
bail-piece and
affidavit, taken
before a com-
missioner, be-
ing filed, in
K. B.

Prac. 253.

In the King's Bench.

A. B. plaintiff, &c. (17.)

Take notice, that the bail-piece in this cause, with the affidavit of the due taking thereof, was this day filed with the honourable Mr. Justice —, at his chambers in *Serjeant's Inn, Chancery-lane, London.* Dated the — day of — 18—.

Your's &c.

L. M. defendant's attorney, (*or agent.*)

To Mr. *I. K.* plaintiff's attorney, (*or agent.*)

(§ 22.)
The like, in
C. P.

Prac. 253.

In the Common Pleas.

A. B. plaintiff, &c. (17.)

Take notice, that special bail was on the — day of — instant, put in for the above-named defendant, before — Esquire, a commissioner appointed to take special bails in and for the county of — ; and the names of the bail are *E. F.* of —, and *G. H.* of —, which have been allowed by the honourable Mr. Justice — ; and the bail-piece, together with the affidavit of the due taking thereof, is filed with the filacer of the said county. Dated, &c. (*as in last, with the like subscription, and direction.*)

(§ 23.)
Entry of excep-
tion to bail, in
K. B. or C. P.

Prac. 256.

I except against these bail.

I. K. plaintiff's attorney, (*or agent.*)

— 18—.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

I have excepted against the bail put in for the defendant in this cause.

Your's, &c.

I. K. plaintiff's attorney, (*agent, or clerk in court.*)

— 18—.

To Mr. *L. M.* defendant's attorney, }
(*agent, or clerk in court.*) }

(§ 24.)
Notice of ex-
ception.
Prac. 256.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 25.)

Take notice, that *E. F.* and *G. H.* the bail already put in for the defendant in this cause, and of whom you have had notice, will on — next, justify themselves in open court at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated the — day of — 18—.

Notice of justification, by the same bail.

Prac. 259.

Your's, &c.

L. M. defendant's attorney, (agent, or clerk in court.)

To Mr. *I. K.* plaintiff's attorney, (agent, or clerk in court.)

If the bail were put in before a *commissioner*, the notice should express that they will justify themselves "by affidavit."

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 26.)

Take notice, that — of —, and — of —, will on — next, add themselves to the bail already put in for the defendant in this cause; and at the same time will justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated, &c. (*as in last, with the like subscription, and direction.*)

Notice of adding and justifying different bail.

Prac. 259.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 27.)

Take notice, that — of —, will on — next, add himself to the bail already put in for the defendant in this cause; and that he, together with *G. H.* one of the bail already put in for the said defendant, and of whom you have before had notice, will at the same time justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated, &c. (*as in last but one, with the like subscription, and direction.*)

Notice of adding one bail, and justifying.

Prac. 259.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.) *

(§ 28.)

I. T. of —, clerk to *L. M.* gentleman, attorney for the defendant in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve Mr. *I. K.* the plaintiff's attorney, with a true copy of the notice hereunto annexed. (*If the notice be served on the clerk or servant of the plaintiff's attorney, say, "serve Mr. I. K. the plaintiff's attorney in this cause, with a true copy of the notice hereunto annexed, by delivering the same to the clerk, or servant, of the said I. K. at his house, or chambers, in —."*)

Affidavit of service of notice of justification, in K. B. or C. P.

Prac. 264.

I. T.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

(§ 29.)

L. M. of —, maketh oath and saith, that he did, on the — day of — instant, (*or last,*) serve Mr. *I. K.* the plaintiff's clerk in court, with a true copy of the notice hereunto annexed, by placing the same upon the seat of the said *I. K.* in the office of pleas of the Exchequer in *Lincoln's Inn*, in the county of *Middlesex*, and leaving the same there. *L. M.*

The like, in the Exchequer, when the bail is taken before a commissioner.

Prac. 264.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 30.)
Affidavit for
justification of
bail, put in be-
fore a commis-
sioner in the
country.

Prac. 263.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

E. F. of —, and *G. H.* of —, bail for the defendant in this cause, (*stating the additions of the bail, as well as their christian and surname, and places of residence,*) severally make oath and say; and first, this deponent *E. F.* for himself saith, that he is a housekeeper in — aforesaid; and that he this deponent is worth the sum of —*l.* (*double the sum sworn to,*) over and above what will pay all his debts: And this deponent *G. H.* for himself saith, that he is a housekeeper in —, and is worth the sum of —*l.* over and above what will pay all his debts. *E. F.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

G. H.

(§ 31.)
Affidavit to op-
pose justifica-
tion of bail.

Prac. 264.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

I. S. of —, clerk to Mr. *I. K.* attorney (*or, clerk in court*) for the plaintiff in this cause, maketh oath and saith, that Mr. *L. M.* attorney (*or, clerk in court*) for the defendant in this cause, having served the said *I. K.* with notice of justifying bail in this action, he this deponent, by the order and direction of the said *I. K.* inquired into the sufficiency of the bail intended to be justified for the said defendant; and saith, that *G. H.* one of the said bail hath been a bankrupt, and hath not yet obtained his certificate, as this deponent hath been informed and verily believes, (*or otherwise according to the fact.*) *I. S.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 32.)
Affidavit to
obtain further
time to justify
bail, in K. B.

Prac. 272.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

I. T. of —, clerk to *L. M.* gentleman, attorney for the above-named defendant, maketh oath and saith, that *E. F.* one of the bail for the said defendant in this action, and whose name is mentioned in the notice of justification, was put in as bail for the said defendant, with the privity and consent of the said *E. F.* and promised to justify as such bail: And this deponent verily believes, that he the said *E. F.* was and is able to justify, as good and sufficient bail in this action*: And this deponent further saith, that he fully expected that the said *E. F.* would have attended this morning to justify accordingly; but that the said *E. F.* has not yet arrived for that purpose, as this deponent verily believes; and this deponent is not aware of the cause of his absence. *I. T.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 32. a.)
The like, in
C. P.

Prac. 272.

In the Common Pleas.

A. B. plaintiff, &c. (17.)

(*As in last form, to the asterisk, and then as follows:*) And this deponent further saith, that he this morning called at the house of the said *E. F.* in order to bring him to justify as bail for the said defendant, according to his said promise; when this deponent found the said *E. F.* ill in bed with a fever, (*or other disease:*) And this deponent verily believes, that the said *E. F.* is quite unable to come to this honourable court, for the purpose of justifying as bail, in consequence of the said illness. *I. T.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

— on (or next after) —, &c. (11.)

(§ 33.)

Rule for the allowance of bail, in K. B.
Prac. 276.

B. } Upon reading the affidavit of *I. T.* it is ordered, that the bail put
v. } in for the defendant in this cause, who have this day justified them-
D. } selves in court, be allowed, and (if by bill,) the bail-piece filed.
Upon the motion of Mr. *I. P. Coffin*. By the Court.

(§ 34.)

The like, as to one bail, and for time to justify the other, in K. B.
Prac. 276.

B. } Upon reading the affidavit of *I. T.* it is ordered, that *E. F.* one
v. } of the defendant's bail, who has this day justified himself in court,
D. } be allowed; and that the said defendant have time until —, to justify *G. H.* his other bail in this cause; the said defendant hereby consenting, that the plaintiff shall be in the same situation, by the course of this court, as if they had both justified this day. Upon the motion of Mr. *I. P. Coffin*. By the Court.

(§ 35.)

The like, on justifying the other bail, in K. B.
Prac. 276.

B. } Upon reading the rule made in this cause on —, and the affidavit of *I. T.* it is ordered, that *G. H.* one of the defendant's bail,
v. } who has this day justified himself in court, be allowed, together with
D. } *E. F.* who justified himself on — last. Upon the motion of Mr. *I. P. Coffin*. By the Court.

In the Common Pleas.

(§ 36.)

The like, in C. P.
Prac. 276.

— term, &c. (23.)

B. } Upon reading the affidavit of *I. T.* and notice thereto annexed,
v. } and on hearing counsel for the defendant, and on the examination of
D. } *E. F.* and *G. H.* on their oaths this day, in open court, it is ordered, that the said *E. F.* and *G. H.* do stand and be allowed as good and sufficient bail for the said defendant in this action.

On the motion of Serjeant *Blosset*, for the defendant. By the Court.

(As in last, to the end of the rule, and then as follows :) and that the said defendant be discharged out of the custody of the marshal of the Marshalsea, (or, warden of the Fleet, or, sheriff, or sheriffs, of —,) as to this action, (adding, if defendant be in custody of the warden or sheriff, "by writ of *supersedeas*.")

(§ 37.)

Rule of allowance and discharge, in K. B. or C. P. when defendant is in custody, in term time.
Prac. 279.

C. D. } Upon hearing the attornies or agents on both sides, and
(a prisoner,) } special bail having been put in and justified, I do order
ats. } that the clerk of the rules (or, secondary) do draw up a rule
A. B. } for the allowance of the same, and for the discharge of the defendant out of the custody of the marshal of the Marshalsea, &c. (as in last.) Dated the — day of — 18.

(§ 38.)

Judge's fiat for such rule, in vacation.
Prac. 279.

C. D. } Upon reading the order of the honourable Mr. Justice
(a prisoner,) } —, dated the — day of — 18—, and it thereby ap-
ats. } pearing, that the defendant hath put in and perfected bail
A. B. } in this action, and upon reading the affidavit of *I. T.* and the notice thereunto annexed; it is ordered, that the said bail be allowed, (and, in actions by bill, the bail-piece filed;) and that the said defendant be discharged out of the custody of the marshal of the Marshalsea, &c. (as above.)

(§ 39.)

Rule thereon, in K. B.
Prac. 279.

(§ 40.)
The like, in
C. P.
Prac. 279.

C. D. } Upon reading the order of the honourable Mr. Justice
(a prisoner,) } —, dated the — day of — 18—, and it thereby ap-
ats. } pearing, that the defendant hath put in and perfected bail
A. B. } in this action; and upon reading the affidavit of I. T. and
the notice thereunto annexed; it is ordered, that E. F. and G. H. do
stand and be allowed as good and sufficient bail for the said defendant in
this action; and that the said defendant be discharged out of the custody
of the warden of the Fleet, &c. (as in § 37.)

(§ 41.)
Entry of recog-
nizance of bail,
by bill, in K. B.
Prac. 277, 8.

As yet of — term, (*the term of which the declaration is intitled,*)
in the — year of the reign of king George the Fourth.
Witness Charles Lord Tenterden. Ellenborough.

— (to wit.) Be it remembered, that on — next after — in this
same term, before the lord the king at Westminster, comes A. B. by —
his attorney, and brings into the court of the said lord the king, before
the king himself, now here, his certain bill against C. D. being in the
custody of the marshal of the Marshalsea of our said lord the king, before
the king himself, of a plea of trespass on the case, (*or, as the plea is;*) and
there are pledges for the prosecution thereof, to wit, John Doe and Ri-
chard Roe; which said bill follows in these words, that is to say: —
(to wit.) A. B. complains of C. D. &c. (*here copy the declaration to the
end, omitting the pledges, and proceed, on a new line, as follows:*)

And the said C. D. by — his attorney, comes and defends the wrong
and injury, when, &c. And thereupon E. F. of —, and G. H. of
—, come into the court of the said lord the king before the king him-
self now here, in their proper persons, and become pledges and bail, and
each of them becomes pledge and bail for the said C. D. that if the said
C. D. shall happen to be convicted, at the suit of the said A. B. in the
plea aforesaid, then the said bail consent, and each of them consents, that
all such damages (*or, in debt, that as well the said debt, as all such da-*
mages) as shall be adjudged to the said A. B. in this behalf, shall be made
of their, and each of their, lands and chattels, and levied to the use of the
said A. B. if it shall happen that the said C. D. shall not pay the said
damages, (*or, in debt, the said debt and damages,*) or render himself to
the prison of the marshal of the Marshalsea of the said lord the king, be-
fore the king himself, on that occasion.

(§ 42.)
The like, by
original, in
K. B.
Prac. 277, 8.

As yet of — term, (*the term wherein the process, upon which the
defendant was arrested, was returnable,*) in the — year of the
reign, &c. (*as above, omitting the name of the chief clerk.*)

— (*the county, or city, where the bail was put in,*) to wit. The she-
riff was commanded, that he should take C. D. late of —, if he should
be found in his bailiwick, and him safely keep, so that he might have him
before the lord the king, on —, wheresoever the said lord the king
should then be in England, to answer A. B. &c. (*as in the capias, to the
words, "as it is said;" and if there was an alias, proceed as follows:*)
Whereupon the sheriff of —, to wit, — Esquire, did return to the
said lord the king, before the king himself, that the said C. D. was not
found in his bailiwick: And thereupon the said sheriff was commanded,

as *before* he had been commanded, that he should take the said *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have him before the said lord the king, on — wheresoever the said lord the king should then be in *England*, to answer the said *A. B.* in the plea aforesaid: At which day, that is to say, on —, before the said lord the king at *Westminster*, the said *A. B.* comes in his proper person, and offers himself, on the fourth day, against the said *C. D.* in the plea aforesaid; and the said *C. D.* by — his attorney also comes, and defends the wrong and injury, when, &c. And thereupon, at the same day, *E. F.* of —, and *G. H.* of —, come here into the court of the said lord the king, before the king himself, at *Westminster*, in their proper persons, and become pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said *C. D.* and do acknowledge themselves to owe, and each of them doth acknowledge himself to owe, to the said *A. B.* the sum of — *l.* and do submit and grant for themselves and their heirs, and each of them doth submit and grant for himself and his heirs, that the said sum of — *l.* shall and may be made of their, and each of their, lands and chattels, and levied to and for the use of the said *A. B.* in case the said *C. D.* shall happen to be convicted in the plea aforesaid, at the suit of the said *A. B.* and if the said *C. D.* shall not pay and satisfy unto the said *A. B.* all such damages, costs and charges (or, in debt, as well the said debt or sum of — *l.* as all such damages, costs and charges) as shall be adjudged to the said *A. B.* in the plea aforesaid, or render himself to the custody of the marshal of the Marshalsea of the said lord the king, before the king himself, on that occasion.

Kenyon.

As yet of — term, &c. (*as in last.*)

— (to wit.) (*The county in which the venue is laid:*) The sheriff of — (*the county into which the testatum issued,*) was commanded, that he should take *C. D.* late of —, if he should be found in his bailiwick, and him safely keep, &c. (*as in last:*) And whereupon the sheriff of —, at a certain day now past, had returned to the said lord the king, that the said *C. D.* was not found in his bailiwick; whereupon, on behalf of the said *A. B.* it was sufficiently testified in the court of the said lord the king, before the king himself, that the said *C. D.* did run up and down, and secrete himself in the said county of —: At which day, &c. (*as in last, to the end.*)

Kenyon.

— (to wit.) —, by divine permission, Lord Bishop of *Durham*, was commanded, that by the writ of the lord the king, under the seal of his bishoprick to be duly made, and directed to the sheriff of the county palatine of *Durham*, he should command the same sheriff, that he should take *C. D.* late of —, if he should be found in the said county palatine, and him safely keep, &c. (*as in last but one, to the end.*)

Kenyon.

(*As before, § 42. to the words, defends the wrong and injury when, &c. and then as follows:*) And whereas *E. F.* of —, and *G. H.* of —, in their proper persons, came before *J. K.* gentleman, a commissioner lawfully authorized and appointed to take bails in the said court of the lord

(§ 42. a.)
The like, where
defendant was
arrested on a
testatum capias.
Prac. 277, 8.

(§ 42. b.)
The like, where
the arrest was in
a county palatine.
Prac. 277, 8.

(§ 42. c.)
The like, where
the recognizance was taken
before a commissioner.
Prac. 277, 8.

CHAP. XII. the king, before the king himself, in and for the said county of —, according to the form of the statute in that case made and provided, at — in the said county of —, on the — day of —, in the — year of the reign of the said lord the now king * ; and become pledges, &c. (*as in § 42, to the end, and then as follows :*) which said recognizance, the said *J. K.* afterwards in due manner transmitted to Sir — knight, then one of the justices of the said court of the said lord the king, before the king himself, at his chambers, situate in *Serjeant's Inn, Chancery Lane, London* ; and the said justice afterwards, to wit, in the term of —, in the — year aforesaid, produced the same recognizance in the said court of the said lord the king, before the king himself, to be recorded ; and thereupon the same recognizance, at the request of the said *A. B.* in the said court of the said lord the king, is recorded. *Kenyon.*

(§ 43.)
Docket paper,
in K. B.
Prac. 277.

The entry (*or*, further entry) of *F. K.* gentleman, one, &c. of — term, — *George the Fourth.*

Entry of recognizance of bail, by *E. F.* and *G. H.* bail of *C. D.* defendant, at the suit of *A. B.* plaintiff. Roll—.

(§ 44.)
Entry of recognizance of bail,
in C. P.

Prac. 278.

Middlesex (to wit.) The sheriff was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of the lord the king at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage, &c. and against the peace, &c. ; and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (*or*, in *debt*, “in a certain plea of debt upon demand for — *l.*”) And now here, on this day, to wit, on the — day of — in this same term, *E. F.* of —, and *G. H.* of —, come in their proper persons, before Sir *William Draper Best* knight and his companions, justices of the lord the king of the bench here, and acknowledge themselves, and each of them doth acknowledge himself, to owe to the said *A. B.* the sum of — *l.* ; which said sum of — *l.* the said *E. F.* and *G. H.* for themselves and their heirs do consent and grant, and each of them for himself and his heirs doth consent and grant, shall be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied ; upon this condition, that if judgment shall happen to be given in the same court here, in the said plea, for the said *A. B.* against the said *C. D.* then the said *C. D.* shall satisfy all such damages (*or*, in *debt*, “the debt aforesaid, and all such damages”) as shall be adjudged to the said *A. B.* against the said *C. D.* in the same court here, in the plea aforesaid, or shall render his body on that occasion to the prison of the Fleet, &c.

(§ 45.)
The like, when
taken before a
commissioner, in
C. P.

Prac. 278.

— (to wit.) The sheriff of — was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of the lord the king of

* The words in *italics*, are used only when the bail are taken before the commissioner, of the same term as they are curolled.

the bench at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage &c. and against the peace, &c. and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.*: And now here, on this day, that is to say, on the — day of — in the year of our Lord 18—, and in the — year of the reign of our sovereign lord the now king, come *E. F.* of —, and *G. H.* of —, in their proper persons, before *J. K.* Esquire, one of the commissioners, by the justices of our said lord the king of the bench at *Westminster*, appointed, according to the form of the statute in such case made and provided, to take recognizances of bail in and for the said county of —, and acknowledge themselves to owe, and each of them doth acknowledge himself to owe, to the said *A. B.* the sum of —*l.*; which said sum of —*l.* they the said *E. F.* and *G. H.* for themselves and their heirs, do consent and grant, and each of them for himself and his heirs doth consent and grant, shall be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied; upon this condition, that if judgment shall happen to be given in the same court here, in the plea aforesaid, for the said *A. B.* against the said *C. D.* then the said *C. D.* shall satisfy all such damages as shall be adjudged to the said *A. B.* against the said *C. D.* in the same court here, in the plea aforesaid, or shall render his body on that occasion to the prison of the Fleet: which said recognizance afterwards, to wit, on the — day of —, in — term, in the — year of the reign of our said lord the king, was duly transmitted by the said *J. K.* so being such commissioner as aforesaid, to the right honourable Sir *William Draper Best* knight, then and still being chief justice (or, “to the honourable — knight, then and still being one of the justices”) of our said lord the king of the bench here, at his chambers in *Serjeant’s Inn, Chancery Lane, London*, and by him the said chief justice (or, “justice”) was afterwards, to wit, in this same term, in the — year aforesaid, brought into the said court of the bench here, to be inrolled and recorded; and thereupon the said recognizance, at the request of the said *A. B.* is duly enrolled and recorded in the said court here, &c.

— (to wit.) The sheriff of — was commanded, &c. (*as in last, to the end of recital of writ:*) And such proceedings were thereupon had, that the said *A. B.* afterwards, to wit, in — term, in the — year of the reign of our sovereign lord the now king, before Sir *William Draper Best* knight, and his companions, then his said majesty’s justices of the Bench at *Westminster*, by the consideration and judgment of the same court, recovered against the said *C. D.* —*l.* which to the said *A. B.* in the same court were adjudged, for his damages which he had sustained, on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* whereof the said *C. D.* is convicted: And afterwards, and before any execution had issued upon the said judgment, for the damages aforesaid, and whilst the same remained and were wholly unsatisfied, (that is to say,) on the — day

(§ 46.)

The like, where the recognizance was taken after judgment, in vacation, in C. P.

Prac. 251.
278, 9.

CHAP. XII. of —, in the year of our lord 18—, and in the — year of the reign of our said lord the king, came *E. F.* of —, and *G. H.* of —, in their proper persons, before *J. K.* gentleman, one of the commissioners, by the justices of our said lord the king at *Westminster*, appointed, according to the form of the statute in such case made and provided, to take recognizances of bail in and for the said county of —, and acknowledged themselves to owe, and each of them did acknowledge himself to owe, to the said *A. B.* the sum of —*l.*; which said sum of —*l.* the said *E. F.* and *G. H.* for themselves and their heirs, consented and granted, and each of them for himself and his heirs did consent and grant, should be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied; upon this condition, that the said *C. D.* should satisfy the said damages, so recovered as aforesaid, or should render his body on that occasion to the prison of the Fleet: which said recognizance was afterwards, to wit, on the — day of — in the — year of the reign of our said lord the king, duly transmitted, &c. (*as in the last.*)

(§ 47.)

Entry of recognizance of bail, by *quo minus*, in the Exchequer.

Prac. 278.

Pleas, &c. (*as before*, p. 71.)

— (to wit.) Be it remembered, that on the — day of — in this same term, before the barons of this Exchequer at *Westminster*, comes *A. B.* a debtor to our sovereign lord the king, by *E. F.* his attorney; and complains by bill against *C. D.* present here in court the same day, of a plea of trespass on the case, &c. the tenor of which said bill follows in these words, that is to say: — (to wit.) *A. B.* a debtor, &c. (*here copy the bill verbatim, and proceed on a new line as follows:*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and thereupon come also here into court, *E. F.* of —, and *G. H.* of —, and become pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said *C. D.* that if it shall happen that the said *C. D.* shall be convicted in the plea aforesaid, then the said manucaptors grant, and each of them by himself doth grant, that all such damages as shall be adjudged to the said *A. B.* in this behalf, shall be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* if it shall happen that the said *C. D.* shall not pay the said damages to the said *A. B.* or render himself to his majesty's prison of the *Fleet* on that occasion.

(§ 48.)

The like, on an attachment for contempt.

Prac. 278.

Be it remembered, that on the — day of —, in the — year of the reign of our lord the now king, before the honourable Sir *William Alexander* knight, chief baron of his majesty's court of Exchequer at *Westminster*, came *C. D.* of —, *E. F.* of —, and *G. H.* of —; and the said *C. D.* acknowledged himself to owe to our said lord the king, the sum of — of lawful money of *Great Britain*, and the said *E. F.* and *G. H.* acknowledged themselves respectively to owe to our said lord the king, the sum of —*l.* of like lawful money; upon condition, that the said *C. D.* shall personally appear in his said majesty's court of Exchequer at *Westminster*, on — next coming, to answer all such matters and things

as shall be then and there objected against him, and so from day to day, till he shall be discharged the same court; neither shall he depart therefrom, without leave of the same court first had and obtained; then this recognizance to be void, or else to remain in full force and virtue. CHAP. XII.

Taken and acknowledged at —, the — } C. D.
day of — 18—, before me, } E. F.
William Alexander. G. H.

The within-named C. D. justified to the sum of —l. and E. F. and G. H. to the sum of —l. each, this — day of — 18—, before me,
William Alexander.

In the King's Bench. A. B. plaintiff, &c. (17.)
— (to wit.) C. D. the above defendant, did this — day of —
18—, render himself, (or, was rendered) in discharge of his bail, at the
suit of the above plaintiff, and was thereupon committed by Mr. Justice
—, to the custody of the marshal, &c. there to remain until, &c.

(§ 49.)
Entry or minute of render
and commitment, in K. B.
Prac. 285.

In the King's Bench.

A. B. } — to wit, (*venue.* Defendant to render (or, be rendered)
v. }
C. D. } in discharge of his bail in this action.

(§ 50, 51.)
Memorandum
of state of cause,
in K. B.
Prac. 286.

Oath for —l. (*if before declaration; adding, if afterwards, "Declaration filed, or delivered," "Issue joined," or "Interlocutory judgment signed;" and, if after judgment, "Final judgment for —l. debt and damages," or, in case, "for —l. damages and costs."*)

E. F. attorney.

In the King's Bench, (or Common Pleas.) A. B. plaintiff, &c. (17.)

Take notice, that the above defendant did this day render himself (or, was this day rendered) in discharge of his bail, at the suit of the above plaintiff, and was thereupon committed by the honourable Mr. Justice —, to the custody of the marshal, &c. (*in K. B.; or, in C. P. to his majesty's prison of the Fleet,*) there to remain, until, &c. Dated the — day of — 18—.

Your's, &c.

(§ 52.)
Notice of render, in K. B.
or C. P.
Prac. 288.

L. M. attorney for defendant,

To Mr. I. K. plaintiff's attorney. (or bail, as the case may be.)

In the King's Bench, (or Common Pleas.) A. B. plaintiff, &c. (17.)

I. T. of —, clerk to L. M. gentleman, attorney for the defendant's bail in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve Mr. I. K. the plaintiff's attorney, with a true copy of the notice hereunto annexed; (*and, if the service was on his clerk or servant, add, "by delivering the same to the clerk, or servant, of the said Mr. I. K. at his house, or chambers, in —, in the county of —."*)

(§ 53.)
Affidavit of
service of notice
of render.
Prac. 288.

I. T.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

CHAP. XIII.

ASSIGNMENT of BAIL BOND, &c.; and PROCEEDINGS against the SHERIFF, &c. to compel him to RETURN the WRIT, and BRING in the BODY.

(§ 1.)
Assignment of
bail-bond.
Prac. 297.

I THE within-named sheriff of — have, at the request of *A. B.* the plaintiff also within-named, assigned to him the said *A. B.* the within-written bail bond, and all benefit and advantage arising therefrom, pursuant to the statute in that case made and provided. In witness whereof, I have hereunto set my hand and seal of office, this — day of — 18—.

— Sheriff.

Signed, sealed and delivered, by the }
within-named sheriff, in the presence of }

I. K.

L. M.

(§ 2.)
Indemnity to
the sheriff, on
delivery of bail-
bond, on attach-
ment for con-
tempt, in the
Exchequer.

I do hereby acknowledge to have received from — Esquire, sheriff of the county of —, a bail bond for the appearance of *C. D.* in his majesty's court of Exchequer at *Westminster*, on — last past, at the suit of *A. B.* to answer the lord the king, concerning divers trespasses, contempts and offences, by him lately done and committed; with licence to use the name of him the said — Esquire, to whom it is become forfeited: In consideration whereof, I do hereby promise and undertake, to save harmless and keep indemnified the said sheriff, of from and against all costs, charges, amerciaments, damages and expenses whatsoever, relating thereto. As witness my hand, this — day of — 18—.

Witness *G. H.*

E. F. plaintiff's solicitor.

(§ 3.)
Affidavit to set
aside regular
proceedings on
bail-bond, at the
instance of de-
fendant.

Prac. 302.

In the King's Bench, (*or*, Common Pleas.) *A. B.* plaintiff, &c.* (17.)

C. D. of —, maketh oath and saith, that he this deponent was, on or about the — day of — last, arrested at the suit of the above-named plaintiff, upon a bill of *Middlesex*, (*or* writ of *latitat*, *or*, *capias ad respondendum*, &c.) sued out in this action; and that he this deponent, on that day, (*or*, on the — day of — last,) gave a bail bond to the officer of the sheriff of —, by whom he was so arrested, and was thereupon discharged out of custody. And this deponent further saith, that special bail hath since been put in, in this action, for this deponent; and which said bail hath been duly perfected: (*Or, if the defendant has been*

* In the King's Bench, the affidavit should it seems be entitled in the original cause; but, in the Common Pleas, in the action on the bail-bond. *Prac.* 304.

rendered in discharge of his bail, then, instead of stating that bail has been perfected, state the render, thus: " And this deponent further saith, that bail above hath since been put in, in this action, for the said defendant; and the said defendant was, on the — day of — instant, (or, last,) duly rendered in discharge of his said bail, in this action, at the suit of the above-named plaintiff:) And this deponent further saith, that the said *A. B.* the above-named plaintiff, on or about the — day of — last, (or, instant,) took an assignment of the said bail bond, as this deponent hath heard and verily believes; and hath since commenced an action upon the same, against this deponent. And this deponent further saith, that he hath a good defence upon the merits, to the action in which he was so arrested as aforesaid, as he this deponent is advised and believes.

C. D.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 4.)

The like, on the part of the bail to the sheriff.

Prac. 302.

E. F. of —, and *G. H.* of —, severally make oath and say, that *C. D.* the above-named defendant was, on or about the — day of — last, arrested in this action, at the suit of the above-named plaintiff; and that these deponents, together with the said *C. D.* after the said arrest, on the — day of — last, duly executed a bail bond to the sheriff of —, in this action; and the said *C. D.* was thereupon discharged out of custody: And these deponents further say, that special bail hath since been put in, in this action, for the above-named defendant, &c. (*as in last.*) And these deponents further severally say, that the said *A. B.* the above-named plaintiff, on or about the — day of — last, (or, instant,) took an assignment of the said bail bond, as these deponents have heard and verily believe; and hath since commenced an action upon the same, against these deponents. And these deponents further severally say, that this application is really and truly made on the part of these deponents, as bail for the said *C. D.* at their own expense, and for their only indemnity, without collusion with the said *C. D.* the above-named defendant.

E. F.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

G. H.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 5.)

The like, on the part of the sheriff's officer.

Prac. 302.

I. K. of —, officer of the sheriff of —, maketh oath and saith, that on or about the — day of — last, by virtue of a warrant to him directed, he this deponent arrested *C. D.* the above-named defendant, and kept and detained him in his custody, until, on the — day of — last, a bail bond was duly executed, conditioned for the appearance of the said *C. D.* in this action; whereupon this deponent discharged the said *C. D.* out of his custody. And this deponent further saith, that special bail, &c. (*as in* § 3.) And this deponent further saith, that the said *A. B.* the above-named plaintiff, on or about the — day of — last, (or, instant,) took an assignment of the said bail bond, as this deponent hath heard and verily believes; and hath since commenced an action upon the same, against the said *C. D.* and his bail to the said sheriff. And this deponent further saith, that this application is really

CHAP. XIII. and truly made on the part of this deponent, as officer of the said sheriff of —, at his this deponent's own expense, and for his only indemnity, and without collusion with the said *C. D.* the above-named defendant.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

I. K.

(§ 6.)

Affidavit, on the part of plaintiff, to shew that a trial has been lost.

Prac. 304.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

I. K. of —, clerk to *E. F.* gentleman, attorney for the above-named plaintiff, maketh oath and saith, that *C. D.* the above-named defendant was, on or about the — day of — last, arrested, at the suit of the said *A. B.* the above-named plaintiff, by virtue of a bill of *Middlesex*, (*or*, writ of *latitat*, *or*, *capias ad respondendum*, &c.) sued out in this cause, returnable on —. And this deponent further saith, that a declaration in this cause was duly filed with the proper officer of this honourable court, and a notice thereof duly served upon the said defendant, on the — day of — last, (*or*, instant.)

I. K.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

— on (or next after) —, &c. (11.)

(§ 7.)

Rule to return writ, *fr* K. B.

Prac. 306.

B. } It is ordered, that the sheriffs of *London* shall within *four* days
v. } next after notice of this rule, to be given to their secondaries, (*or*,
D. } that the sheriff of the county of — shall, within *four* days, in *Middlesex*, or *six* days in any other county, next after notice of this rule, to be given to his under-sheriff,) peremptorily return the writ of —, issued between the parties.

Side Bar.

By the Court.

In the Common Pleas.

— term, &c. (23.)

(§ 8.)

The like, in C. P.

Prac. 306.

B. } It is ordered, that the sheriff of the county of —, within *four*
v. } days (in *Middlesex*, or *six* days in any other county,) next after notice
D. } of this rule, to be given to his under-sheriff, do peremptorily return the writ of *capias ad respondendum*, issued between the said parties.

In the Treasury chamber, at the instance of the plaintiff. By the Court.

— term, &c. (68.)

A. B. against *C. D.*

(§ 9.)

The like, in the Exchequer.

Prac. 306.

Side-Bar. It is ordered, that the sheriff of the county of — do peremptorily return here into court, his majesty's writ of *quo minus*, to him directed and delivered, between the said parties, and returnable at a day now past, (*or*, this day,) within *four* days (in *Middlesex*, or *six* days in any other county,) after notice of this rule, to be given to him or his under-sheriff.

By the Court.

Rose.

In the King's Bench.

A. B. plaintiff, &c. (17.)

(§ 10.)

Affidavit of service of rule to return writ, &c. in K. B.

Prac. 307.

I. K. of —, clerk to *E. F.* gentleman, attorney for the above-named plaintiff, maketh oath and saith, that he did, on the — day of — instant, personally serve Mr. —, who is or acts as deputy to the secondaries of the city of *London*, at their office, No. 28, *Coleman Street*, (*if in London*; *or, if in Middlesex*, "Mr. —, who is or acts as deputy sheriff of the county of *Middlesex*;" *or, if any other county*, "Mr. —, who is the under-sheriff of the county of —,") with a true copy of the

rule hereunto annexed, and at the same time shewed him the said original rule. And this deponent further saith, that he has this day searched at the office of the *custos brevium* of this honourable court, for the return of the writ of —, issued in this cause, but that the same was not filed in the said office.

I. K.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

In the Common Pleas.

A. B. plaintiff, &c. (17.)

(§ 11.)

I. K. of —, clerk to E. F. gentleman, attorney for the above-named plaintiff, maketh oath and saith, that a writ of *capias ad respondendum* was regularly issued out of, and under the seal of this honourable court, directed to the present sheriffs (or sheriff) of —, and returnable on — last past; and that he this deponent did, on the — day of — instant, personally serve, &c. (*as in last*.) And this deponent further saith, that he did this morning search with the *custos brevium* of this honourable court, amongst the file of writs as of this term, for the return of the said writ of *capias ad respondendum*, but that the same was not filed with the said *custos brevium*.

The like, in
C. P.
Prac. 307.

I. K.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

— on (or, next after) —, &c. (11.)

(§ 12.)

B. } Upon reading the rule made in this cause, on — next after
v. } —, in this present — term, and the affidavit of E. F. it is or-
D. } dered, that a writ of attachment issue against the sheriff of the
county of —, for his contempt in not returning the bill of *Middlesex*,
(or, writ of *latitat*, or *capias ad respondendum*, &c.) issued in this cause,
pursuant to the said rule. Upon the motion of Mr. *Comyn*.

Rule for attach-
ment, for not
returning writ,
in K. B.
Prac. 307, 8.

By the Court.

In the Common Pleas.

— term, &c. (23.)

(§ 13.)

The like, in
C. P.

Prac. 307, 8.

B. } Upon reading a rule made in this cause, on the — day of —,
v. } in this present — term, and the affidavit of E. F., it is ordered,
D. } that an attachment be issued forth against the sheriff of the county
of —, for not returning the writ of *capias ad respondendum*, issued
in this cause, pursuant to the said rule.

On the motion of Serjeant E. *Lawes* for the plaintiff. By the Court.

The within-named C. D. is not found in my bailiwick.

The answer of —, sheriff.

(§ 14.)
Return of *non
est inventus*.
Prac. 308.

I have taken the within-named C. D. whose body I have ready, as with-
in I am commanded.

The answer, &c. (*as above*.)

By virtue of this writ to me directed, I have taken the within-named
C. D. whose body remains in the prison of the lord the king, under my
custody.

The answer, &c. (*as above*.)

I have taken the within-named C. D. whose body I have ready, as
within I am commanded; but the within-named E. F. is not found in
my bailiwick.

The answer, &c. (*as above*.)

By virtue of this writ to me directed, I made my certain warrant in
writing, under my seal of office, to E. F. and G. H. my bailiffs, jointly
and severally, to take and arrest the within-named C. D.; by virtue of

(§ 15, 16, 17.)
Returns of *capi
corpus, et para-
tum habeo*, &c.
Prac. 308.

(§ 18.)
Rescue.
Prac. 308.

CHAP. XIII. which warrant the said *E. F.* and *G. H.* afterwards, and before the return of the said writ, to wit, on the — day of — last, at — in my county, and within my bailiwick, took and arrested the within-named *C. D.* according to the exigency of the said writ, and safely kept him in their custody, until *J. K.* of —, and divers other persons to my said bailiffs unknown, on —, at — aforesaid, with force and arms, assaulted and ill treated my said bailiffs, and the said *C. D.* out of the custody of my said bailiffs then and there rescued, and the said *C. D.* then and there, with force and arms, rescued himself, and escaped out of the custody of my said bailiffs, against the peace of our lord the now king; and afterwards, the said *C. D.* is not found in my bailiwick.

The answer, &c. (§ 14.)

(§ 19.)
Discharge on
supersedeas.
Prac. 308.

By virtue, &c. (*as in last.*) I took the within-named *C. D.* and safely kept him in his majesty's prison in and for the county of —, until afterwards, to wit, on —, by virtue of a certain other writ of our said lord the now king to me directed, and to this writ annexed, I caused the said *C. D.* to be delivered out of the said prison; wherefore I cannot have the body of the said *C. D.* before our said lord the king, (*or, in C. P.* before the justices of our said lord the king,) at the day and place within contained, as within I am commanded.

The answer, &c. (§ 14.)

(§ 20.)
Delivery over,
on *habeas cor-*
pus, to the mar-
shal.
Prac. 308.

By virtue, &c. (109.) I took the within-named *C. D.* and safely kept him, &c. (*as in last.*) until afterwards, to wit, on —, I received his said majesty's writ of *habeas corpus cum causâ*, commanding me to have the body of the said *C. D.* before the right honourable *Charles Lord Tenterden*, his said majesty's chief justice, assigned to hold pleas in the court of our lord the now king, before the king himself, at his chambers situate in *Serjeant's Inn, Chancery Lane, London*, immediately after the receipt of that writ: by virtue of which said writ, and in obedience thereto, I had the body of the said *C. D.* with the said last-mentioned writ, and the return of the within cause, mentioned in a certain schedule thereunto annexed, before his said majesty's chief-justice, at his chambers aforesaid, on the — day of — last, who then received of me the body of the said *C. D.* and committed him to the prison of the marshal of the Marshalsea of our said lord the king, before the king himself, and altogether discharged and exonerated me from further keeping the said *C. D.*; wherefore I cannot have the body of the said *C. D.* before our said lord the king, at the day and place within contained, as within I am commanded.

The answer, &c. (§ 14.)

(§ 21.)
Inquidus in
prisonâ.
Prac. 308.

By virtue, &c. (109.) I have taken the within-named *C. D.* who remains in his majesty's prison of —, under my custody, so weak and infirm, that without great peril and danger of his life, I cannot have his body before the lord the king, (*or, in C. P.* before the justice of the lord the king,) at the day and place within contained, as within I am commanded.

The answer, &c. (§ 14.)

(§ 22.)
Mandavi balliv-
&c.
Prac. 309.

By virtue, &c. (109.) I have made my mandate to the bailiff of the city of —, to take and arrest the within-named *C. D.* which said bailiff hath the full return of all writs and process, and the execution of the

same, within the liberty aforesaid, so that no execution of this writ can be made by me within the said liberty; which said bailiff hath not as yet given me any answer thereto; (or, "hath answered, that the within-named *C. D.* is not found in his bailiwick;" or, "that he hath taken the within-named *C. D.* whose body he hath ready.") The answer, &c. (§ 14.)

George the Fourth, &c. (14.) To the sheriff of — greeting: We command you, that you distrain *G. H.* bailiff of our liberty of — in your county, by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you receive another command from us in that behalf; and that you answer to us for the issues thereof, so that you have before us at *Westminster*, on — next after —, (or, *by original*, on — wheresoever we shall then be in *England*,) the body of *E. F.* by him taken, and in our prison under his custody detained, as by your return, heretofore by you sent into our court before us, you have charged the said bailiff, to answer to *A. B.* of a plea of trespass, and also to a bill, &c. (or, *by original*, the body of *E. F.* late of —, whom by our command the said *G. H.* lately took, as you returned to us at *Westminster*, on — last past,) to answer to *A. B.* of a plea, &c. (as the plea is,) and for the said *G. H.* to hear his judgment thereupon of many defaults; and have there then (or, *by original*, "have there") this writ. Witness, &c. (58.)

The sheriff was commanded, that he should take *C. D.* late of —, if, &c. and him safely keep, so that he might have his body before the lord the king, on — last past, wheresoever, &c. to answer to *A. B.* of a plea, &c. (as the plea is.) And now here at this day, comes the said *A. B.* by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* of the plea aforesaid; and the said *C. D.* does not come: And the sheriff returns, that he hath made his mandate to *G. H.* bailiff of the liberty of —, in the county aforesaid, who has the return of all writs and process, and the execution of the same, within the liberty aforesaid, and within which the execution of that writ by him the said sheriff could not be made; which said bailiff gave this answer to the said sheriff, that he had taken the body of the said *C. D.* whose body he would have here at this day. And because the said bailiff hath not the body of the said *C. D.* here at this day, therefore the said bailiff is in mercy, and amerced by the court of our lord the king here, to —*l.*; and it is commanded to the sheriff, that he distrain the aforesaid bailiff by all his lands, &c. and that he answer, &c. so that he have before the lord the king, on — wheresoever, &c. the body of the said *C. D.* whom, &c. to answer to the said *A. B.* of the plea aforesaid, &c.

— on (or, next after) —, &c. (11.)

B. } It is ordered, that the sheriffs of *London* shall within *four* days
v. } next after notice of this rule, to be given to their secondaries, (or,
D. } that the sheriff of the county of — shall within *four* days, in

(§ 23.)

Distringas ballivum, in *K. B.**
Prac. 309. 313.

(§ 24.)

Entry thereof, by original, in *K. B.*
Prac. 309. 313.

(§ 25.)

Rule to bring in the body, in *K. B.*
Prac. 810.

* This writ is now disused; as an attachment lies against the bailiff, for not returning the writ, in *K. B.*

CHAP. XIII. *Middlesex*, or *six* days in any other county, next after notice of this rule, to be given to his under-sheriff,) peremptorily bring into court the body of the defendant.

Side Bar.

By the Court.

(§ 26.)

The like, by
filacer, in C. P.

Prac. 310.

In the Common Pleas.

— term, &c. (23.)

B. } Unless the sheriff of — do cause the body of the defendant to
v. } be brought into this court, on — next after —, let him be
D. } amerced *forty* shillings.

By the Court.

(§ 27.)

The like, by
secondary, in
C. P.

Prac. 310.

In the Common Pleas.

— term, &c. (23.)

B. } Upon reading the *filacer's* rule made between the said parties, it is
v. } ordered, that the sheriff of the county of —, within *four* days
D. } (in *Middlesex*, or *six* days in any other county,) next after notice of
this rule, to be given to his under-sheriff, do peremptorily bring into this
court, the body of the defendant.

In the Treasury Chamber, at the instance of the plaintiff.

By the Court.

(§ 28.)

The like, by
Exchequer.

Prac. 310.

— term, &c. (68.)

A. B. against *C. D.*

Side Bar. It is ordered, that the sheriff of the county of — do peremptorily bring here into court the body of the said defendant, whom he has taken and detained in his custody, by virtue of his majesty's writ of *quo minus*, issued between the said parties, as the said sheriff has charged himself by his return made on the said writ, within *four* days (in *Middlesex*, or *six* days in any other county,) next after notice of this rule, to be given him or his under-sheriff.

By the Court.

Rose.

(§ 29.)

Affidavit of
service of rule
to bring in the
body, &c. in
K. B. or C. P.

Prac. 311.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

I. K. of —, clerk to *E. F.* gentleman, attorney for the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve Mr. —, who is or acts as deputy to the secondaries of the city of *London*, at their office, No. 28, *Coleman street*, (if in *London*; or, if in *Middlesex*, “Mr. —, who is or acts as deputy sheriff of the county of *Middlesex*;” or, if in any other county, “Mr. —, who is under sheriff of the county of —,”) with a true copy of the rule hereunto annexed, and at the same time shewed him the said original rule. And this deponent further saith, that no bail above has been put in for the defendant in this cause, (or, “that bail above has been put in for the defendant in this cause, but that the same is not perfected;” adding, in C. P. “he this deponent having this morning searched with the proper *filacer* for that purpose.”)

I. K.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

(§ 30.)

The like, in the
Exchequer.

Prac. 311.

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

E. F. of — gentleman, maketh oath and saith, that he did, on the — day of — instant, (or, last,) serve *J. K.* under-sheriff of the county of —, with a true copy of the rule hereunto annexed, by delivering such copy to *I. M.* the clerk of the said *J. K.* at his office in —

aforesaid * ; and at the same time shewed him the said original rule. And this deponent further saith, that no bail above has been put in for the defendant in this cause, (or, " that bail above has been put in for the defendant in this cause, but that the same is not perfected.") E. F.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

George the Fourth, &c. (14.) To — and —, by the court here elected and chosen for that purpose, greeting: We command you, that you distrain the Right Honourable — Lord —, our constable of Dover Castle, by all his lands and chattels in the bailiwick of the said constable, so that neither he nor any one for him do lay hands on the same, until you receive another command from us in that behalf, and that you answer to us for the issues thereof, so that the said constable have before us (or, in C. P. before our justices) at Westminster, on — next after —, the body of C. D. by him taken, and in our prison under his custody detained, as appears by the said constable's return, heretofore by him sent into our court before us (or, in C. P. before our said justices) at Westminster aforesaid, to answer to A. B. of a plea of trespass, and also to a bill of the said A. B. against the said C. D. for — *l.* upon promises, (or, as the plea is,) according to the custom of our court before us to be exhibited, (or, in C. P. to answer to A. B. of a plea of trespass, and also of a plea of trespass on the case upon promises, to the damage of the said A. B. of — *l.* or as the plea is,) and for the said constable to hear judgment thereupon of his many defaults; and have there then this writ. Witness, &c. (30, 31.)

(§ 31.)
Distringas,
against the con-
stable of Dover
Castle, to com-
pel him to bring
in the body.
Prac. 312, 13.

B. } Upon reading the rule made in this cause, on — next after —,
v. } in this present — term, (or, in — term last,) and the affidavit
D. } of E. F. it is ordered, that a writ of attachment issue against the
sheriff of the county of —, for his contempt in not bringing into court
the body of the defendant, pursuant to the said rule. Upon the motion
of Mr. E. Madox. By the Court.

(§ 32.)
Rule for attach-
ment, for not
bringing in the
body, in K. B.
Prac. 311.

In the Common Pleas.

term, &c. (23.)

B. } Upon reading a rule made in this cause, on — the — day of —,
v. } in this present — term, and the affidavit of E. F. it is ordered, that
D. } an attachment of contempt be issued forth against the sheriff of the
county of —, for not bringing into this court the body of the defendant,
pursuant to the said rule.

(§ 33.)
The like, in
C. P.
Prac. 311.

On the motion of Serjt. E. Lawes, for the plaintiff. By the Court.

George the Fourth, &c. (14.) To the coroner of the county of —, greeting: We command you, that you attach C. D. Esquire, sheriff of our said county, so that you may have him before us, on —, to answer to us, for certain trespasses and contempts, by him lately done and committed in our court before us; and have there then this writ. Witness Charles Lord Tenderden, &c. (58.) By the Court. Lushington.

(§ 34.)
Attachment
against the she-
riff, for not
bringing in the
body, in K. B.
Prac. 314.

* *Quære*, Whether the affidavit should not state that the rule was personally served on the under-sheriff? as the effect of it is to bring the sheriff into contempt; and the rule requires notice to be given to him, or his under-sheriff. See 3 Durnf. & East, 351.

Indorsement.

By rule of court, for not bringing into court the body of the defendant, pursuant to a rule of court; with costs of attachment.

E. F. solicitor for the prosecution.

Bridges, clerk in court.

(§ 35.)
The like attachment, in
C. P.

Prac. 314.

George the Fourth, &c. (14.) To the coroner of —, greeting: We command you, that you attach — Esquire, sheriff of our said county, so that you may have him before our justices at *Westminster*, on — next after —, to answer to us, of and concerning those things which on our behalf shall then and there be objected against him; and have there then this writ. Witness, &c. (15.)

(*Indorsement as in last.*)

(§ 36.)
The like, in the
Exchequer.

Prac. 314.

George the Fourth, &c. (14.) To the coroner of —, greeting: We command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and attach — Esquire, sheriff of our said county, by his body, wheresoever you shall find him in your bailiwick, and him safely keep, so that you may have him before the barons of our Exchequer at *Westminster*, on —, to answer to us, concerning divers trespasses, contempts and offences, by him lately done and committed; and have there then this writ. Witness Sir *William Alexander, &c.* (125.)

By the Barons.

Indorsement.

A. B. against *C. D.*

By rule of court, made the — day of — 18—, (*the day of granting rule for attachment*), for not bringing in the body of the defendant, pursuant to a rule of court, made in the said cause for that purpose.

(§ 37.)

Rule upon coroners, to return attachment, in K. B.

Prac. 314.

— on (*or*, next after) —, &c. (11.)

The King v. *Sheriff of —*. It is ordered, that the coroner (*or*, coroners) of the city (*or* county) of — do, within *four* days (*in London or Middlesex*, or *six* days in any other county,) next after notice of this rule, to be given to him (*or* them, or one of them,) peremptorily return this writ of attachment.

Side-bar.

By the Court.

(§ 38.)

The like, in
C. P.

Prac. 314.

In the Common Pleas.

— term, &c. (23.)

The King v. *Sheriff of —*. It is ordered, that the coroner (*or*, coroners) of the county of —, within — days next after notice of this rule, to be given to him (*or* them,) do peremptorily return the writ of attachment of contempt, issued forth between the said parties.

In the Treasury Chamber, at the instance of the plaintiff. By the Court.

(§ 39, 40, 41.)

The *affidavit* and *rule* for an attachment against coroners, in *K. B.* and *C. P.* for not returning the writ of attachment against the sheriff, are similar to those against the latter, *mutatis mutandis*.

(§ 42.)
Attachment against coroners, directed to elisors, in C. P.
Prac. 314.

George the Fourth, &c. (14.) To *G. H.* and *I. K.* Elisors, appointed by our court of the bench in this behalf, greeting: We command you, that you attach *L. M.* Esquire, coroner (*or*, *L. M.* and *N. O.* Esquires, coroners) of our county of —, so that you may have him (*or* them) before our justices at *Westminster*, on, &c. (*as before*, § 35.)

— on (or, next after) —, &c. (11.)

The King } Upon reading this writ of attachment, and the return
v. } made thereto, it is ordered, that a writ of *habeas corpora*
Sheriff of — } issue, directed to the coroner (or, coroners) of the county
B. v. D. } of —, commanding him (or, them) to have the body
of the defendant, the sheriff, (or, bodies of the defendants, the sheriffs,) before this court, immediately, to undergo, &c. Upon the motion of Mr. *I. G. Lloyd*.

(§ 43.)
Rule for *habeas corpora*, to bring in the bodies of sheriffs, in K. B.
Prac. 314.

By the Court.

George the Fourth, &c. (14.) To the coroner (or, coroners) of the county of —, greeting: We command you, that you have in our court before us at *Westminster*, on — next after —, the body of *L. M. Esquire*, sheriff (or, the bodies of *L. M.* and *N. O. Esquires*, sheriffs) of our county of —, to answer to us, for certain trespasses and contempts, brought against them in our said court before us, and whereof by your return you have charged yourself, (or, yourselves.) Witness *Charles Lord Tenterden*, &c. (58.)

(§ 44.)
Writ of *habeas corpora* thereon.
Prac. 314.

By the Court.

Lushington.

In the King's Bench (or Common Pleas.)

England. *The King* against the Sheriff of —, in a cause

A. B. v. C. D.

(§ 45.)
Affidavit to set aside regular attachment, in K. B. or C. P. at the instance of defendant.
Prac. 316.

C. D. of —, maketh oath and saith, that he this deponent was, on or about the — day of — last, arrested at the suit of the above-named plaintiff, upon a bill of *Middlesex*, (or, writ of *latital*, or *capias ad respondendum*, &c.) sued out in this action; and that he this deponent did on that day (or, on the — day of — last,) give a bail-bond to the officer of the sheriff of —, by whom he was so arrested, and was thereupon discharged out of custody: And this deponent further saith, that special bail hath since been put in in this action, for this deponent, and which said bail hath this day been duly perfected, (or, if the defendant has been rendered in discharge of his bail, then, instead of stating that the bail has been perfected, state the render, as before, p. 107.) ; And this deponent further saith, that on the — day of — instant, (or, last,) an attachment issued out of this honourable court, against the said sheriff of —, for not having obeyed the rule to bring in the body of this deponent, as this deponent hath heard and verily believes: And this deponent further saith, that he hath a good defence to this action upon the merits, as he is advised and verily believes.

C. D.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

(As before, p. 107, § 4, 5. only that instead of stating that the plaintiff has taken an assignment of the bail-bond, and commenced an action thereon, state the issuing of the attachment against the sheriff, for not obeying the rule to bring in the body, as in last form.)

(§ 46.)
The like, on the part of the bail to the sheriff, or sheriff's officer.
Prac. 316.

In the King's Bench.

England, &c. (title as in last but one.)

I. K. of the Secondaries Office, *Coleman street*, *London*, clerk to the secondaries of *London*, maketh oath and saith, that on the — day of — last, a special *capias ad respondendum* issued out of this honourable court, directed to the sheriffs of *London*, commanding them to take the

(§ 46. a.)
The like, on the part of the sheriffs of *London*, where the defendant was rendered.
Prac. 316.

CHAP. XIII. above-named *C. D.* to answer the above-named *A. B.* returnable on —, wheresoever, &c. and indorsed for bail for — *l.* And this deponent further saith, that on the — day of — instant, the same defendant, with two sureties, gave a bail-bond to the said sheriffs of *London*: And this deponent further saith, that on the — day of — instant, the sheriffs were served with a rule to return the said writ of special *capias ad respondendum*; and having returned *cepimus corpus* thereon, a rule to bring in the body of the said defendant was served on the said sheriffs, on the — day of — instant: And this deponent further saith, that an attachment has since issued against the said sheriffs of *London*, for not bringing into court the body of the said defendant, of which notice was given at the Secondaries Office, on the — day of — instant: And this deponent further saith, that on the same — day of — instant, bail above was put in for the said defendant, on behalf of the said sheriffs of *London*; and that the said defendant was, on the same — day of — instant, duly rendered into the custody of the marshal of the King's Bench prison, in discharge of his bail in the above cause; and that notice of such render was, on the same — day of — instant, duly served on the plaintiff's attorney in this cause, as this deponent is informed and believes: And this deponent further saith, that this application is really and truly made on the part of the said sheriffs of *London*, at the expense of the secondaries for the said city of *London*, and for their indemnity alone, and without collusion with the original defendant.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

J. K.

— on (or, next after) —, &c. (11.)

(§ 46. *b.*)
Rule of court
thereon, for set-
ting aside pro-
ceedings, on pay-
ment of costs.

<p><i>The King</i> v. <i>Sheriffs of London.</i> <i>B. v. D.</i></p>	}	<p>Upon reading the several affidavits of <i>I. K.</i> and <i>I. M.</i>* and two several paper writings thereto annexed, it is ordered, that — next be given to the prosecutor, to shew cause why, upon payment of costs by the defendants, the sheriffs, to the said prosecutor or his attorney, this writ of attachment, and all proceedings had thereon, should not be set aside, upon notice of this rule to be given to the attorney or agent for the said prosecutor in the mean time: And it is further ordered, that all proceedings in this action be stayed, until cause be shewn. Upon the motion of <i>Mr. W. Kerr.</i></p>
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By the Court.

* An affidavit of service of notice for special bail, and of service of notice of motion.

CHAP. XIV.

PROCEEDINGS *in ACTIONS by and against ATTORNIES, and OFFICERS of the COURTS of KING'S BENCH, COMMON PLEAS, and EXCHEQUER ; and for the TAXATION of their COSTS.*

— **ATTACHMENT** of privilege, for *A. B.* gentleman, one, &c. against *C. D.* returnable on — next after —. *A. B.* in person. — 18—.

(§ 1.)
Præcipe for attachment of privilege, not bailable, in K. B.
Prac. 319.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you attach *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court before us, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass; and have there then this writ. Witness, &c. (58.)

(§ 2.)
Attachment of privilege, not bailable, in K. B.
Prac. 319.

— Attachment of privilege, for *A. B.* gentleman, one, &c. against *C. D.* Case, for — *l.* on promises, (*or, as the action is,*) returnable on — next after —. *A. B.* in person. — 18—.

(§ 3.)
Præcipe for bailable attachment of privilege, in K. B.
Prac. 319.

Oath for — *l.* by affidavit filed.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you attach *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court, &c. (*as in § 2.*) of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, (*or, as the action is,*) according to the custom of our court before us; and have there then this writ. Witness, &c. (58.)

(§ 4.)
Attachment of privilege, bailable, in K. B.
Prac. 319.

C. D. of —.

Ellenborough.

Bail by affidavit for — *l.*

(§ 5.)
Indorsement thereon.
Prac. 319, 20.

A. B. in person.

— 18—.

George the Fourth, &c. (14.) To —, (59.) greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and to be directed to the sheriff of the same county, you command the said sheriff, that he attach *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that you may have their

(§ 6.)
Attachment of privilege, into a county palatine, in K. B.
Prac. 319,

CHAP. XIV. bodies before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies, &c. (*as in § 2.*)

(*Indorsement as on last.*)

(§ 7.)
Entry of attachment of privilege on the roll, to save the statute, in *K. B.*
Prac. 162. 319.

As yet of — term, in the — year of the reign of king *George the Fourth.* Witness *Charles Lord Tenterden.*

England, (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, to wit: *George the Fourth, &c. (here copy the attachment of privilege, and then proceed as follows:)*

At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, —, sheriff of the said county of —, now here returns, that the said *C. D.* is not found in his bailiwick.

Ellenborough.

(§ 8.)
Beginning of declaration, at suit of an attorney, in *K. B.*
Prac. 321.

— term, in the — year of the reign of king *George the Fourth.*

— (to wit.) *A. B.* gentleman, one of the attornies of the court of our lord the now king before the king himself, being present here in court in his own person, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, complains of *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king, before the king himself: For that whereas, &c.

— Attachment of privilege, for *A. B.* gentleman, one, &c. against *C. D.* &c. (*as before, § 1 or 3.*)

(§ 9, 10.)
Præcipe for, and writ of attachment of privilege, in *C. P.*
Prac. 320.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Attach *C. D.* so that you may have him before our justices at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court of the Bench, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (*or, as the plea is, there being no occasion for an ac etiam in this writ;*) and have there this writ. Witness, &c. (15.)

C. D. of —.

(§ 11.)
Indorsement thereon, when bailable.
Prac. 319, 20.

Bail by affidavit for —*l.*

A. B. in person.

— 18—.

—, (to wit.) Appearance for *C. D.* at the suit of *A. B.* gentleman, one, &c. to an attachment of privilege, returnable on —.

G. H. defendant's attorney.

In the Common Pleas.

(§ 12.)
Præcipe for common appearance, in *C. P.*
Prac. 321.

— term, &c. (*as above.*)

— Attachment of privilege, for *A. B.* gentleman, one, &c. against *C. D.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (*or as the plea is;*) returnable on —.

(§ 13.)
Special bail-piece, on an attachment of privilege, in *C. P.*
Prac. 321.

The bail are, *E. F.* of —, and
G. H. of —.

Each of them in — *l.* *L. M.* attorney for defendant.
 In the Common Pleas.

— term, &c. (*opposite.*)

— (to wit.) *C. D.* was attached by his majesty's writ of privilege, issuing out of his said majesty's court of the Bench here, to answer *A. B.* gentleman, one of the attornies of his said majesty's court of the Bench aforesaid, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass on the case, &c. (*or, as the plea is:*) And thereupon the said *A. B.* in his proper person complains, that whereas, &c. (*adding pledges.*)

(§ 14.)
 Beginning of declaration, at suit of an attorney, in C. P.
Prac. 321.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and cause *C. D.* to come before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* gentleman, one of the side-clerks of *E. F.* Esquire, secondary of the office of our remembrancer in our said Exchequer, and also our debtor, of a plea of trespass on the case, (*or, as the plea is;*) whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he saith he can reasonably shew that thereof the said *C. D.* ought to answer; and have you there then this writ. Witness *Sir William Alexander*, &c. (125.)

(§ 15.)
Ventre of privilege, in the Exchequer.
Prac. 81. 92.

E. F. Solicitor. *Bridges.* *C.* *Rose.*

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you omit not, &c. (*as in last,*) but that you enter the same, and take *C. D.* and *John Doe*, wheresoever they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* gentleman, one of the clerks of *E. F.* gentleman, one of the sworn attornies in the office of clerk of the pleas of our said Exchequer, of a plea of trespass on the case, (*or, as the plea is;*) and have you there then this writ. Witness, &c. (125.)

(§ 16.)
Capias of privilege, in the Exchequer.
Prac. 81. 92.

E. F. Solicitor, &c. (*as in last.*)

In the Exchequer of Pleas.

— term, &c. (*opposite.*)

— (to wit.) *A. B.* gentleman, one of the sworn attornies (*or, one of the side-clerks of E. F.* gentleman, one of the sworn attornies) of the office of clerk of the pleas of his majesty's court of Exchequer at *Westminster*, comes before the barons of this Exchequer, on the — day of — in this same term, in his own proper person; and complains by bill against *C. D.* present here in court the same day, of a plea of trespass on the case, &c. (*or, as the plea is:*) For that whereas, (&c.)

(§ 17.)
 Beginning of declaration, at suit of an attorney, or side-clerk, in the Exchequer.
Prac. 321.

(§ 18.)

Beginning of
bill, against an
attorney, in
K. B.

Prac. 321. 433.

Ellenborough.

—— term, &c. (118.)

—— (to wit.) *A. B.* complains of *C. D.* gentleman, one of the attornies of the court of our lord the now king, before the king himself, being present here in court in his own person, of a plea of trespass on the case, &c. (*or, as the plea is*): For that whereas, (&c.)

(§ 19.)

The like, by one
attorney against
another, in K. B.

Prac. 321. 433.

—— (to wit.) *A. B.* gentleman, one of the attornies of the court of our lord the now king before the king himself, being present here in court in his own person, complains of *C. D.* gentleman, one other of the attornies of the said court of our said lord the king before the king himself, being also present here in court in his own person, of a plea of trespass on the case, &c. (*or, as the plea is*): For that whereas, (&c.)

Mr. C. D.

This is a true copy of a bill filed against you, as of this present — term; and unless you plead thereto in *four* days from the date hereof, judgment will be signed against you by default. Dated the — day of — 18 —.

E. F. plaintiff's attorney.

(§ 20.)

Notice, to be
indorsed on
copy of bill
against attorney,
in K. B.

Prac. 322.

Ellenborough.

—— term, &c. (118.)

—— (to wit.) Be it remembered, that on the — day of —, in the — year of the reign of our lord the now king, (*some day after the cause of action accrued*), *A. B.* brought into the office of clerk of the declarations of the court of our said lord the king before the king himself, according to the course and practice of the same court, his certain bill against *C. D.* gentleman, one of the attornies of the said court of our said lord the king, before the king himself; and filed the same bill as of — term, in the — year of the reign of our said lord the king; which said bill follows in these words, (that is to say): — (to wit.) *A. B.* complains of *C. D.* gentleman, one of the attornies, (&c.)

Ellenborough.

(§ 22.)

Beginning of
bill, against the
marshal.

—— term, &c. (118.)

—— (to wit.) *A. B.* complains of *C. D.* Esquire, marshal of the Marshalsea of our lord the now king, before the king himself, present here in court in his own person, of a plea that he render, &c. (*or, as the plea is*): For that whereas, (&c.)

(§ 23.)

The like, when
the cause of ac-
tion arises, and
bill is filed in
vacation.

—— (to wit.) Be it remembered, &c. (*as in last form but one, describing the defendant, as "C. D. Esquire, marshal of the Marshalsea of our said lord the king before the king himself"*.)

In the Common Pleas.

(§ 24.)

The like,
against an attor-
ney, in C. P.

Prac. 323.

—— term, &c. (118.)

To the justices of our lord the king of the Bench.

—— (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* gentleman, one of the attornies of his majesty's court of the Bench here, being present here in court in his proper person, of a plea of trespass on the case, &c. (*or, as the plea is*): For that whereas, &c. (*as in other cases, concluding with a prayer of relief, and adding pledges.*)

In the Common Pleas.

— term, &c. (118.)

To the justices of our lord the king of the Bench.

— (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* Esquire, warden of his majesty's prison of the *Fleet*, being present here in court in his proper person, of a plea, &c. (*as in last :*) For that whereas, &c. Pledges, &c. (57.)

In the Common Pleas.

A. B. plaintiff,

and

C. D. gentleman, one, &c. defendant.

Take notice, that a bill was this day filed in the prothonotaries office, in *Tanfield Court*, in the *Inner Temple, London*, against you, as of this present — term, at the suit of the above plaintiff *A. B.* in an action of trespass on the case upon promises, wherein the plaintiff lays his damage to — *l.* (*or, as the plea is :*) and unless you appear to the said bill, in — days from the date hereof, you will be forejudged the court. Dated the — day of — 18—. Your's, &c.

To Mr. *C. D.* the above defendant.

E. F. attorney for plaintiff.

In the Common Pleas.

— term, &c. (118.)

— (to wit.) Be it remembered, &c. (*as in the next precedent, to the end of the bill, and then as follows :*) Whereupon the said *C. D.* being solemnly called, came not ; therefore he standeth forejudged, from exercising his office of attorney of this court, for his contumacy, &c.

In the Common Pleas.

— term, &c. (118.)

— (to wit.) Be it remembered, that on the — day of — in this same term, *A. B.* came into his majesty's court of the Bench here, by *E. F.* his attorney, and exhibited to the justices of the same court here, his certain bill against *C. D.* gentleman, one of the attornies of his said majesty's court of the Bench aforesaid, being present here in court in his proper person, of a plea of trespass on the case, &c. (*or, as the plea is ;*) and there are pledges for the prosecution thereof, to wit, *John Dor* and *Richard Roe* ; the tenor of which said bill follows in these words, that is to say : To the justices of our lord the king of the Bench. — (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* &c. (*to the end of the bill, adding pledges.*)

In the Exchequer of Pleas.

— term, &c. (118.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of this Exchequer, on the — day of —, in this same term, by *E. F.* his attorney ; and complains by bill against *C. D.* gentleman, one of the sworn attornies (*or, one of the side-clerks of G. H.* gentleman, one of the sworn attornies) of the office of clerk of the pleas of his majesty's court of Exchequer at *Westminster*, present here in court the same day, of a plea of trespass on the case, &c. (*or, as the plea is :*) For that whereas, (&c.)

(§ 25.)

The like,
against the
warden of the
Fleet.

Prac. 324.

(§ 26.)

Notice of bill,
filed against an
attorney, in
C. P.

Prac. 323.

(§ 27.)

Entry of fore-
judger, in C. P.

Prac. 323.

(§ 28.)

Beginning of
declaration
against an at-
torney, after
appearance, by
bill, in C. P.

Prac. 323.

(§ 29.)

Beginning of
declaration,
against an at-
torney, or side-
clerk, in the
Exchequer of
Pleas.

Prac. 92. 325.

(§ 30.)

The like,
against an at-
torney, or side-
clerk, on the
equity side of
the Exchequer.

Prac. 92. 325.

In the Exchequer of Pleas.

— term, &c. (118.)

— (to wit.) *A. B.* a debtor, &c. (*as in last.*) cometh before the barons, &c. (*as in last.*) and complains by bill against *C. D.* gentleman, one of the sworn attornies (or, one of the side-clerks of *G. H.* gentleman, one of the sworn attornies) in the king's remembrancer's office of this Exchequer, present here in court, &c. (*as in last.*)

(§ 31.)

Order for de-
livery and tax-
ation of attor-
ney's bill, in
K. B.

Prac. 335.

B. } I order, that Mr. *E. F.* late attorney for the plaintiff, shall within
v. } *ten* days, deliver to the plaintiff, or Mr. *G. H.* his now attorney, a
D. } bill signed, of his fees and disbursements, in this and all other
causes and matters wherein he has been concerned for the plaintiff; and
that the same be referred to the master to be taxed; the plaintiff having
undertaken to pay what shall appear due on such taxation: And I fur-
ther order, that the said Mr. *E. F.* shall give credit for all sums of mo-
ney, (if any,) by him received, and refund what, (if any thing,) he hath
been overpaid; and that upon payment of what (if any thing,) shall ap-
pear due, he do deliver up all deeds, papers and writings, in his custody
or power, belonging to the plaintiff. Dated the — day of — 18—.

Tenterden.

(§ 32.)

Summons for
taxing attor-
ney's bill, in
C. P. when the
attorney resides
in the country.

Prac. 335.

B. } Let Mr. *E. F.* the plaintiff's attorney, or his agent, attend me at
v. } my chambers, in *Serjeants Inn*, on *Monday, Tuesday, or Wednesday*
D. } next, at *eleven* of the clock in the forenoon, to shew cause, why his
bill of fees and disbursements, delivered to the plaintiff, in this and other
causes and matters, should not be referred to one of the prothonotaries, to
be taxed. Dated, &c. (*as above.*)

W. D. Best.

(§ 33.)

Undertaking to
pay attorney's
bill on taxation,
in the Exche-
quer.

Prac. 335.

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

I the undersigned *A. B.* do hereby submit, undertake, and agree, to
pay *E. F.* of — gentleman, my late attorney, all such sums of money
as shall happen or appear to be due and owing to him, on the taxation of
his bill of costs, delivered to me on or about the — day of — 18—,
amounting to the sum of —*l.*

A. B.

Witness, *G. H.*

— the — day of — 18—. This is the undertaking mentioned
and referred to, in and by the affidavit hereunto annexed.

Sworn this day before me,

I. K. a Commissioner.

(§ 34.)

Memorandum
thereon.

(§ 35.)

Affidavit of sig-
nature of same.

In the Exchequer of Pleas.

A. B. plaintiff, &c. (17.)

E. F. of —, gentleman, maketh oath and saith, that he was present,
and did see the above-named plaintiff *A. B.* in the annexed undertaking
named, write and subscribe his name thereto; and that the name *A. B.*
thereto set and subscribed, is of the proper hand-writing of the said *A. B.*

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

E. F.

CHAP. XV.

PROCEEDINGS *in ACTIONS against PRISONERS, in CUSTODY of the SHERIFF, &c. ; or of the MARSHAL of the KING'S BENCH, or WARDEN of the FLEET PRISON ; and on the LORDS' ACT, &c.*

Ellenborough.

— term, in the — year of the reign of king *George the Fourth.*

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the sheriff of —, by virtue of a certain precept called a bill of *Middlesex*, (or, by virtue of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, at the suit of the said *A. B.* against the said *C. D.* and returnable in the same court, on — next after —, in this same term ; for that whereas, (&c.)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the sheriff of the county palatine of —, by virtue of a certain writ of our lord the now king called a *latitat*, issuing out of the court of our said lord the king, before the king himself, at the suit of the said *A. B.* against the said *C. D.* directed to —, and also by virtue of a certain other writ of our said lord the king, under the seal of the said county palatine, thereupon duly made, and directed to the sheriff of the same county palatine ; for that whereas, (&c.)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of —, by virtue of a certain writ of our lord the now king, called a *latitat*, issuing out of the court of our said lord the king, before the king himself, at the suit of the said *A. B.* against the said *C. D.* and also by virtue of the said sheriff's mandate on the said writ, directed to — aforesaid, of a plea of trespass on the case, &c. (or, as the plea is :) for that whereas, (&c.)

— (to wit.) *A. B.* complains of *C. D.* and *E. F.* the said *C. D.* being in the custody of the sheriff of —, by virtue of a certain precept called a bill of *Middlesex*, (or, by virtue of a certain writ of our lord the now king, called a *latitat*, or *alias capias*, &c.) issuing out of the court of our lord the king before the king himself, at the suit of the said *A. B.* against the said *C. D.* and the said *E. F.* being in the custody of the marshal, &c. (p. 118, § 8,) for that whereas, (&c.)

(§ 1.)
Beginning of declaration, where defendant is in custody of the sheriff, in K. B.
Prac. 342. 432.

(§ 2.)
The like, where defendant is in custody of the sheriff of a county palatine.
Prac. 342. 432.

(§ 3.)
The like, where defendant is in custody of an officer of a particular franchise.
Prac. 342. 432.

(§ 4.)
The like, against two defendants, where one is in custody of the sheriff, and the other of the marshal.
Prac. 342. 432.

(§ 5.)
The like, in the
Exchequer,
against a pri-
soner in custody
of the sheriff.
Prac. 342. 432.

To the Barons of his majesty's Exchequer at *Westminster*.

— term, &c. (123.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, comes before the barons of this Exchequer, on the — day of — in this same term, by *E. F.* his attorney; and complains by bill against *C. D.* being a prisoner in the custody of the sheriff of —, by virtue of his majesty's writ of *quo minus*, issued out of the court here, against the said *C. D.* at the suit of the said *A. B.* and returnable at a day now past, of a plea of trespass on the case, &c. (*or, as the plea is;*) for that whereas, &c.

(§ 6.)
Affidavit of de-
livery of copy
of declaration.
Prac. 342. 344.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

E. F. of —, gentleman, maketh oath and saith, that he did, on the — day of — instant, (*or, last past,*) deliver unto *G. H.* the gaoler or keeper of his majesty's gaol or prison in and for the county of —, a true copy of the declaration hereunto annexed; and the said gaoler or keeper then acknowledged to this deponent, that the said defendant was a prisoner in the said gaol or prison, at the suit of the said plaintiff, by virtue of a writ of *latitat*, (*or, capias ad respondendum, or, quo minus, &c.*) issued out of this honourable court, and returnable before the delivery of the said declaration.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

E. F.

(§ 7.)
Pracipe for ha-
beas corpus cum
causa, in K. B.

(§ 8.)
Writ of *habeas
corpus cum cau-
sa*, to do and
receive, &c. in
K. B. or C. P.
Prac. 348.

— (to wit.) *Habeas corpus* for *C. D.* to do and receive, &c. re-
turnable immediately.

E. F. attorney.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you have the body of *C. D.* detained in our prison under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called in the same, before our right trusty and well-beloved *Charles Lord Tenterden*, our chief-justice assigned to hold pleas in our court before us, (*in K. B.; or, in C. P.* before *Sir William Draper Best* knight, our chief-justice of the Bench,) at his chambers, situate in *Serjeants Inn, Chancery Lane, London*, immediately after the receipt of this writ, to do and receive all and singular those things which our said chief-justice shall then and there consider of him in this behalf; and have there then (*omitting the word "there" in C. P.*) this writ. Witness *Charles Lord Tenterden*, (*or, in C. P.* *Sir William Draper Best* knight,) at *Westminster*, &c. (30, 31.)

E. F. attorney.

(§ 9.)
The like, in the
Exchequer.
Prac. 348.

George the Fourth, &c. (14.) To the marshal of our Marshalsea, or his deputy there, greeting: We command you, that you have the body of *C. D.* or by whatsoever other name or addition he may be known or distinguished, taken and detained in our prison under your custody, as it is said, together with the day and cause of taking and detaining him, before the honourable *Sir William Alexander* knight, chief-baron of our Exchequer, at his house, situate in —, immediately after the receipt

of this our writ, to do and receive what our said chief-baron shall then CHAP. XV.
and there think fit to order concerning him; and have there this writ.
Witness Sir *William Alexander* knight, at *Westminster*, the — day of
—, in the — year of our reign.

E. F. Solicitor. *Bridges.* *C.* *Rose.*

George the Fourth, &c. (14.) To the warden of our prison of the (§ 10.)
Fleet, greeting: We command you, that you have the body of *C. D.* de- *Habeas corpus*
tained in our prison under your custody, as it is said, under safe and *ad respondendum*, in K. B.
secure conduct, together with the day and cause of his being taken and *Prac.* 349.
detained, by whatsoever name he may be called in the same, before us at
Westminster, on — next after —, to answer *A. B.* in a plea of tres-
pass, and also to a bill of the said *A. B.* to be exhibited against the said
C. D. for — *l.* upon promises; and further to do and receive all and
singular those things which our said court before us shall then and there
consider of him in this behalf; and have there then this writ. Witness
Charles Lord Tenderden, &c. (58.) *Ellenborough.*
Oath for — *l.* by affidavit filed.

E. F. attorney.

George the Fourth, &c. (14.) To the marshal of our Marshalsea before (§ 11.)
us, greeting: We command you, that you have the body of *C. D.* &c. The like, in
(*as in last*,) before our justices at *Westminster*, on — to answer *A. B.* C. P.
in a plea of trespass, and also in a plea of trespass on the case upon pro- *Prac.* 349.
mises, to the damage of the said *A. B.* of — *l.* (*or, as the plea is*;) and
further to do and receive all and singular those things which our said jus-
tices shall then and there consider of him in this behalf; and have there
then this writ. Witness Sir *William Draper Best* knight, &c. (15.)

George the Fourth, &c. (14.) To the marshal of our Marshalsea, or (§ 12.)
his deputy there, greeting: We command you, that you have under safe The like, in the
and secure conduct, the body of *C. D.* or by whatsoever other name or Exchequer.
addition he may be known or distinguished, detained in our prison under *Prac.* 349.
your custody, as it is said, together with the day and cause of taking and
detaining him in the same, before the barons of our Exchequer at *West-*
minster, on — next coming, to answer *A. B.* our debtor, of a plea of
trespass on the case, (*or, as the plea is*;) and further to do and receive
what our said court shall then and there think fit to order concerning
him; and have there this writ. Witness Sir *William Alexander* knight,
&c. (*as above*.) *Rose.*

George the Fourth, &c. (14.) To the sheriff of —, greeting: We (§ 13.)
command you, that you have the body of *C. D.* by you taken, and in our The like, licet
prison under your custody detained, although sick, as by your return, sent *languidus*, in
into our court before us, (*or, in C. P.* before our justices at *Westminster*,) K. B. or C. P.
manifestly appears, (*or, as manifestly appears to us, or, in C. P.* to our *Prac.* 349.
said justices, by the return of —, late sheriff of the county aforesaid,)
before us at *Westminster*, on — next after —, (*or, in C. P.* before
our justices at *Westminster*, on —,) to answer *A. B.* &c. (*as above*,
§ 10.)

(§ 14.)
Præcipe for habeas corpus ad satisfaciendum.

— (to wit.) *Habeas corpus ad satisfaciendum*, for *A. B.* against *C. D.* for — *l.* damages, (or, for — *l.* debt, and — *l.* damages and costs,) returnable on —. *E. F.* attorney.

(§ 15.)
Habeas corpus ad satisfaciendum, in *K. B.*
Prac. 350.

George the Fourth, &c. (14.) To the warden of our prison of the *Fleet*, greeting: We command you, that you have before us at *Westminster*, on — next after —, the body of *C. D.* detained in our prison under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called in the same, to satisfy *A. B.* — *l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* for his damages which he had sustained, as well by reason of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him laid out about his suit in that behalf, (or, *if in debt*, “to satisfy *A. B.* as well a certain debt of — *l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* as also — *l.* for his damages which he had sustained, as well by reason of detaining the said debt, as for his costs and charges, &c.”) whereof the said *C. D.* is convicted, as appears to us of record; and further to do and receive what our said court before us shall then and there consider of him in this behalf; and have there then this writ. Witness *Charles Lord Tenterden, &c.* (58.)

(§ 16.)
 The like, in
C. P.
Prac. 350.

George the Fourth, &c. (14.) To the marshal of our Marshalsea before us, greeting: We command you, that you have before our justices at *Westminster*, on —, the body of *C. D.* detained in our prison, &c. (*as in last*,) to satisfy *A. B.* — *l.* which were adjudged to the said *A. B.* in our court before our justices aforesaid, for his damages which he had sustained, by reason of the not performing certain promises and undertakings, lately made by the said *C. D.* to the said *A. B.* at — in the county of —, (or, *if in debt*, to satisfy *A. B.* as well a certain debt of — *l.* which the said *A. B.* lately in our court before our justices aforesaid, recovered against the said *C. D.* as also — *l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, by reason of the detaining the said debt,) whereof the said *C. D.* is convicted; and further to do and receive, &c. (*as in last*.) Witness Sir *William Draper Best* knight, &c. (15.)

(§ 17.)
 The like, in the
Exchequer.
Prac. 350.

George the Fourth, &c. (14.) To the warden of our prison of the *Fleet*, or his deputy there, greeting: We command you, that you have the body of *C. D.* detained in our prison, under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be charged in the same, before the barons of our Exchequer at *Westminster*, on — instant (or next), to satisfy *A. B.* our debtor, of — *l.* which the said *A. B.* in our court, before the barons of our said Exchequer at *Westminster*, recovered against him the said *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and under-

takings, by the said *C. D.* to the said *A. B.* lately made; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: and further to do and receive what our said court shall then and there think fit to order concerning him; and have there this writ. Witness Sir William Alexander knight, &c. (125.) *Rose.*

CHAP. XV.

By virtue of this writ to me directed, I have the body of the within-named *C. D.* ready before the barons of the king's Exchequer at *Westminster*, on the day within-mentioned, as by this writ I am commanded.

(§ 18.)
Return thereto.

The answer of — Esquire, Warden.

Ellenborough.

— term, &c. (123.)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself; for that whereas, (&c.)

— (to wit.) Be it remembered, that on the — day of —, in the — year of the reign of our lord the now king, (*some day after the cause of action accrued*,) *A. B.* brought into the office of the clerk of the declarations of the court of our said lord the king before the king himself, according to the course and practice of the same court, his certain bill against *C. D.* being in the custody, &c. (*as in last*,) of a plea of trespass on the case, (*or, as the plea is*,) and filed the same bill as of — term, in the — year of the reign of our said lord the king; which said bill follows in these words, (that is to say:) — (to wit.) *A. B.* complains of *C. D.* being, (&c.)

In the Common Pleas.

— term, &c. (123.)

— (to wit.) *C. D.* was attached (*or, summoned*) to answer *A. B.* in a plea of trespass on the case, &c. (*or, as the plea is*;) and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, (&c.)

In the Common Pleas.

A. B. plaintiff, &c. (17.)

E. F. of — maketh oath and saith, that he did, on the — day of — instant, (*or, last past*,) deliver unto *G. H.* one of the turnkeys of the *Fleet* prison, at the lodge of the said prison, a true copy of the declaration hereunto annexed; and the said turnkey then acknowledged to this deponent, that the said defendant was at that time a prisoner in the said prison of the *Fleet*, at the suit of the said plaintiff. *E. F.*

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

To the Barons of his majesty's Exchequer at *Westminster*.

— term, &c. (123.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of this Exchequer, on the — day of — in this same term, by *E. F.* his attorney; and complains by bill against *C. D.* being a prisoner in the custody of the warden of his majesty's prison of the *Fleet*, of a plea of trespass on the case, &c. (*or as the plea is*;) For that whereas, (&c.)

(§ 19.)
Beginning of bill against a prisoner, in custody of the marshal, in K. B.
Prac. 353. 432.

(§ 20.)
The like, where the cause of action arises, and bill is filed, in vacation.
Prac. 358.

(§ 21.)
Beginning of declaration against a prisoner, in custody of the warden, in C. P.
Prac. 355. (c.)

(§ 22.)
Affidavit of the delivery thereof.
Prac. 355.

(§ 23.)
Beginning of declaration in the Exchequer, against a prisoner in custody of the warden.
Prac. 92. 355.

(§ 24.)

The like, where the prisoner is charged in court, on a *habeas corpus*.

Prac. 92. 355.

To the Barons, &c. (*as in last*.)

— term, &c. (123.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of this Exchequer, on the — day of — in this same term, (*the return of the habeas corpus*), by *E. F.* his attorney; and complains by bill against *C. D.* being a prisoner present here in court in his proper person, by virtue of his majesty's writ of *habeas corpus*, directed to the marshal of the Marshalsea of our said lord the king before the king himself, and by the said marshal now returned here in court, of a plea, &c. (*as the plea is*.)

(§ 25.)

Rule on marshal, to acknowledge defendant in his custody, in *K. B.*

Prac. 363.

— on (or next after) —, &c. (11.)

B. v. D. } It is ordered, that the marshal of the Marshalsea of this court shall bring the defendant into this court, within three days next after notice of this rule to be given to him, or shall give a note in writing under his hand, acknowledging the defendant to be in his actual custody, or shall shew cause to the contrary within the time aforesaid, upon notice thereof being given to the attorney for the plaintiff.

Side bar.

By the Court.

(§ 26.)

Committitur piece, in *K. B.*

Prac. 364.

— (to wit.) *C. D.* is committed to the custody of the marshal, &c. in execution, at the suit of *A. B.* in a plea of trespass on the case, for — *l.* damages, (*or*, in a plea of *debt*, for — *l.* and — *l.* damages,) there to remain, until, &c.

Judgment of — term, —

E. F. attorney.

George the Fourth. Roll —.

If the *final* judgment be entered on a roll of a preceding term to that in which it is signed, as after an *interlocutory* judgment, &c. mention the term, as well as the number of the roll.

(§ 27.)

Entry of *committitur*, in *K. B.*

Prac. 364.

Afterwards, to wit, on — next after —, in the — year of the reign of our lord the now king, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said *C. D.* being then present here in court, at the prayer of the said *A. B.* by the court of our said lord the king now here, is committed to the custody of the marshal of the Marshalsea of our said lord the king before the king himself, in execution for the damages (*or*, for the debt and damages) aforesaid, there to remain, until the said *A. B.* shall be fully satisfied the damages (*or*, debt and damages) aforesaid.

(§ 28.)

The like, on *habeas corpus ad satisfaciendum*, in *C. P.*

Prac. 366.

Afterwards, that is to say, on —, in — term, in the — year of the reign of the lord the now king, comes here the said *A. B.* by his attorney aforesaid; and prays the writ of the said lord the king of *habeas corpus ad satisfaciendum*, to be directed to the warden of his said majesty's prison of the Fleet, in whose custody the said *C. D.* now is, commanding him, that he have before the justices of the said lord the king at *Westminster*, the body of the said *C. D.* under safe and secure conduct, together with the day and cause of his being taken and detained, to satisfy the said *A. B.* his damages (*or*, debt and damages) aforesaid; and it is granted to him, returnable on —. At which day, comes here the

said *A. B.* by his attorney aforesaid; and the said *C. D.* being now present here in court, doth not satisfy the said *A. B.* his damages (*or*, debt and damages) aforesaid, or any part thereof: And hereupon, at the prayer of the said *A. B.* the said *C. D.* is by the justices here committed to the custody of the warden of his said majesty's prison of the *Fleet*, in execution for the damages (*or*, debt and damages) aforesaid, there to remain, until the said *A. B.* shall be fully satisfied the said damages (*or*, debt and damages.)

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— term, &c. (68.)

A. B. plaintiff against *C. D.* defendant.

(§ 29.)
Order of commitment, in the Exchequer.

On which day, the said defendant *C. D.* was brought to the bar of this court, by virtue of his majesty's writ of *habeas corpus*, directed to the warden of his majesty's prison of the *Fleet*, to satisfy *A. B.* his majesty's debtor, of — *l.* which the said *A. B.* in his majesty's court, before the barons of his Exchequer at *Westminster*, recovered against him the said *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings, lately made by the said *C. D.* to the said *A. B.* whereof he is convicted; whereupon, on reading the said writ of *habeas corpus*, and the return made thereon by — Esquire, warden of his said majesty's prison of the *Fleet*, and the record of the judgment in this court, against the said *C. D.* at the suit of the said *A. B.* and upon the motion of Mr. *E. Applethwaite*, of counsel for the said plaintiff; it is ordered that the defendant *C. D.* be remanded to the custody of the warden of his said majesty's prison of the *Fleet*, charged in execution at the suit of the said *A. B.* for the said sum of — *l.* being the damages aforesaid, there to remain, until he shall fully satisfy the said *A. B.* the damages aforesaid.

By the Court. *Rose.*

I *E. F.* keeper of the county gaol of —, do certify, that *C. D.* was on the — day of — last, (*or*, *A. D.* 18—) committed to the county gaol of —, by virtue of a writ of *latitat*, issued out of his majesty's court of King's Bench at *Westminster*, returnable on — next after —, at the suit of *A. B.* in a plea, &c. (*as the plea is*): And I do further certify, that since the said commitment, there has not been delivered to me, or my turnkey, any declaration against him the said *C. D.* at the suit of the said *A. B.* or any other person whatsoever; and that no writ of *habeas corpus* has been brought, for the removal of the said *C. D.* Witness my hand, this — day of — 18—.

(§ 30.)
Gaoler's certificate, for the discharge of a prisoner, in K. B.

Prac. 368.

Witnesses,

G. H.

I. K.

In the King's Bench.

A. B. plaintiff, &c. (17.)

G. H. of — maketh oath and saith, that he this deponent did, on the — day of — last, see *E. F.* keeper of his majesty's gaol in and for the county of —, subscribe his name to the certificate hereunto annexed; and that at the same time he this deponent subscribed his name as a witness to the said certificate; and that *J. K.* of —, did then also

(§ 31.)
Affidavit of gaoler's signature thereto.

Prac. 368.

CHAP. XV. subscribe his name as a witness to the said certificate, in the presence of this deponent.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

G. H.

(§ 32.)
Summons for
supersedeas, in
K. B. or C. P.
Prac. 368, 9.

B. } Let the plaintiff's attorney or agent attend me, at my chambers
v. } in *Serjeants' Inn*, at — of the clock in the forenoon, (*or* afternoon,)
D. } to shew cause, why the defendant should not be superseded, as to
this action, having found good and sufficient bail to answer the plain-
tiff therein, (*or*, "the plaintiff not having declared against him in due
time," &c. *as the cause of supersedeas may be.*)

(§ 33.)
Order thereon,
when defendant
is in custody of
the sheriff, or
warden.

Prac. 369.

B. } Upon hearing the attornies and agents on both sides, and upon
v. } reading the affidavit of G. H. I order, that the defendant be dis-
D. } charged out of the custody of the sheriff of —, (*or*, "warden of
the prison of the *Fleet*," in C. P.) as to this action, by writ of *supersedeas*,
on filing common bail, (*or*, entering a common appearance.) Dated the
— day of — 18—.

(§ 34.)
Præcipe for *su-*
persedeas, in
K. B.

— (to wit.) *Supersedeas*, for C. D. at the suit of A. B.

E. F. attorney.

— 18—.

(§ 35.)
Writ of *super-*
sedeas to shew-
riff, upon the
defendant's put-
ting in good
bail, by bill, in
K. B.

Prac. 369.

George the Fourth, &c. (14.) To the sheriff of — greeting :
Whereas C. D. is detained in our prison, under your custody, by virtue
of a precept called a bill of *Middlesex*, (*or*, "of our writ, to you directed,")
returnable before us at *Westminster*, on — next after —, (*the return*
day;) to answer A. B. of a plea of trespass, and also to a bill of the said
A. B. to be exhibited against the said C. D. for — *l.* upon promises, (*as*
in the precept, or writ;) And because it appears to our said court before us,
that the said C. D. hath found good and sufficient bail to answer the said
A. B. of the plea, and to the bill aforesaid ; therefore we command you,
that if the said C. D. be detained in our prison, under your custody, by
virtue of the said precept, (*or* writ,) and for no other cause, then do you
immediately discharge the said C. D. out of your custody, and permit
him to go at large, as you will answer the contrary at your peril. Wit-
ness *Charles Lord Tenterden*, &c. (58.)

(§ 36.)
The like, where
the defendant
was taken by a
former sheriff.

Prac. 369.

George the Fourth, &c. (14.) To the sheriff of — greeting :
Whereas by our writ we commanded the late sheriff of your county, that
he should take, &c. (*reciting the writ, in the third person*;) and the said
C. D. was, by virtue of the aforesaid writ, taken, and is yet detained in
our prison, under your custody : And because it appears to our said court
before us, that the said C. D. hath put in good and sufficient bail, &c.
(*as in last.*)

(§ 37.)
The like, by
original, in
K. B.

Prac. 369.

George the Fourth, &c. (14.) To the sheriff of —, (*the sheriff to*
whom the writ was directed;) greeting : Whereas C. D. late of —, is
detained in our prison, under your custody, by virtue of our writ of special
capias ad respondendum, returnable before us, on — wheresoever, &c. to
answer A. B. in a plea of trespass on the case upon promises, to the damage
of the said A. B. of — *l.* (*or, as the plea is*;) And because the said
C. D. has, by his pledges and manucaptors, appeared in our court before
us, by G. H. his attorney, to answer the said A. B. in the plea aforesaid,

(*adding, if the defendant was discharged on a judge's order, "pursuant to an order made in our said court before us ;"*) therefore we command you, that if the said *C. D.* be detained, &c. (*as in last but one, to the end.*)

George the Fourth, &c. (14.) To the sheriff of ———, greeting : Whereas *C. D.* is detained in our prison, under your custody, by virtue of our writ of *capias ad respondendum*, to you directed, returnable before our justices at *Westminster*, on ———, to answer *A. B.* in a plea of trespass, and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of ———*l.* (*or as the plea is*) : And because it sufficiently appears to our said justices at *Westminster*, that the said *C. D.* hath appeared in our court of the Bench, before our justices aforesaid, and found good and sufficient bail to answer the said *A. B.* in the plea last aforesaid ; therefore we command you, that if the said *C. D.* be detained, &c. (*as before, § 35.*) Witness Sir *William Draper Best* knight, &c. (15.)

(§ 38.)
The like, in
C. P.
Prac. 361. 369.

George the Fourth, &c. (14.) To the sheriff of ———, greeting : Whereas by our writ, we lately commanded the late sheriff of your county, that he should omit not by reason of any liberty of his county, but that he should enter the same, and take *C. D.* wheresoever he should be found in his bailiwick, and him safely keep, so that he might have his body before the barons of our Exchequer at *Westminster*, at a day now past, to answer *A. B.* our debtor, of a plea of trespass ; as in the said writ is more fully contained : But because the said *C. D.* hath, since the issuing of our said writ, in our said court before the barons of our said Exchequer at *Westminster*, put in his place *G. H.* his attorney, and found good and sufficient bail to answer the said *A. B.* in the plea aforesaid ; therefore we command you, that if the said *C. D.* be detained, &c. (*as in § 35.*) Witness Sir *William Alexander* knight, &c. (125.)

(§ 39.)
The like, in
Exchequer, on
writ of *quo*
minus.
Prac. 369.

E. F. Solicitor. *Bridges.* *C.* *Rosc.*

Issued the ——— day of ———, (*date of judge's order.*)

By order of Mr. Baron ———, bearing date the ——— day of ———, 18—.

George the Fourth, &c. (14.) To the sheriff of ———, greeting : Whereas we lately commanded you, (*or, by our writ of attachment, with proclamation, we lately commanded you,*) that you should omit not by reason of any liberty of your county, but that you should enter the same, &c. (*reciting the writ of attachment, or pluries attachment, with clause of proclamation, for which vide ante, p. 70. stating it to have been returnable at a day now past;*) as in our said writ is more fully contained : And because the said *C. D.* hath, since the issuing of our said writ, come before the barons of our said Exchequer, and put in his place *G. H.* his attorney, to answer *A. B.* at whose instance our said writ issued ; therefore we command you, that if the said *C. D.* be detained, &c. (*as in § 35.*) Witness Sir *William Alexander* knight, &c. (125.)

(§ 40.)
Indorsement
thereon.
(§ 41.)
The like, on
process for
contempt.
Prac. 369.

George the Fourth, &c. (14.) To the sheriff of ———, greeting : Whereas *C. D.* is detained in our prison, &c. (*as before, § 35. to the end of the cause of detainer, and then as follows :*) And because the said *A. B.* hath not declared against the said *C. D.* within two terms next after the re-

(§ 42.)
The like, for
not declaring, in
K. B.
Prac. 369.

CHAP. XV. turn of the said precept, (*or*, “writ;”) and the said *C. D.* hath come into our said court before us, and filed common bail, (*or*, “appeared,”) at the suit of the said *A. B.* in the plea and to the bill aforesaid, (*or*, *by original* “in the plea aforesaid;”) therefore we command you, that if the said *C. D.* be detained, &c. (*as before*, § 35.) Witness *Charles Lord Tenterden*, &c. (58.)

(§ 43.)
The like, in
C. P. when de-
fendant is in
custody of she-
riff.

Prac. 343. 361.
369.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas *C. D.* is detained in our prison, &c. (*as in* § 38. *to the end of the cause of detainer, and then as follows* :) And because it sufficiently appears to our said justices at *Westminster*, that the said *A. B.* hath not declared in the plea last aforesaid, against the said *C. D.* before the end of the term next after the said writ was returnable, as required by the rules of our court of the Bench, before our said justices; and that the said *C. D.* hath appeared in our said court, to answer the said *A. B.* in the plea last aforesaid; therefore we command you, that if the said *C. D.* be detained &c. (*as before*, § 35.) Witness *Sir William Draper Best* knight, &c. (15.)

(§ 44.)
The like, when
in custody of
warden.

Prac. 343. 361.
369.

George the Fourth, &c. (14.) To the warden of our prison of the *Fleet*, greeting: Whereas *C. D.* on the — day of — last, (*or*, in the — year of our reign,) did render himself in discharge of his bail, at the suit of *A. B.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (*or*, *as the plea is*,) and was thereupon committed by Mr. Justice —, to our said prison of the *Fleet*, where he is now detained, under your custody, at the suit of the said *A. B.* in the plea last aforesaid: And whereas no proceeding by declaration had been had by the said *A. B.* against the said *C. D.* before the render and commitment aforesaid: And because it sufficiently appears to our said justices at *Westminster*, that the said *A. B.* hath not declared against the said *C. D.* within *two* terms next after such render, as required by the rules of our court of the Bench, before our said justices; and that the said *C. D.* hath appeared in our said court, to answer the said *A. B.* in the plea last aforesaid; therefore we command you, that if the said *C. D.* be detained, &c. (*as in* § 35. *to the end*.)

(§ 46.)
The like, for
not proceeding
to trial, or final
judgment, in
K. B.

Prac. 369.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas *C. D.* is detained in our prison, &c. (*as before*, § 35. *to the end of the cause of detainer, and then as follows* :) And whereas the said *C. D.* in — term last past, was charged with a declaration, at the suit of the said *A. B.* upon the precept (*or* “writ”) aforesaid: But because it appears to us, that the said *A. B.* hath not proceeded to trial or final judgment against the said *C. D.* within *three* terms next after the delivery of the said declaration, according to the course and practice of our court before us; and because the said *C. D.* hath come into our said court before us, and filed common bail, (*or*, appeared,) at the suit of the said *A. B.* in the plea and to the bill aforesaid, (*or*, *by original*, “in the plea aforesaid;”) therefore we command you, that if the said *C. D.* be detained, &c. (*as before*, § 35.)

George the Fourth, &c. (14.) To the warden of our prison of the Fleet, greeting: Whereas C. D. was lately committed to, and is detained in our said prison, under your custody, upon and by virtue of our writ of habeas corpus cum causâ, directed to the marshal of our prison of the Marshalsea; and by the return thereof it appeared, that the said C. D. had rendered himself, and was committed to the said marshal's custody, in discharge of his bail, at the suit of A. B. in a plea of trespass on the case, (or, as the plea is,) depending in our court before us at Westminster; and the said A. B. hath declared in our said court before us, against the said C. D. in the plea aforesaid: And because it appears to us, that the said A. B. hath not proceeded to trial or final judgment against the said C. D. in the plea aforesaid, in due time, according to the rules of our said court before us; and because the said C. D. hath filed common bail in our said court before us, at the suit of the said A. B. in the plea aforesaid; therefore we command you, that if the said C. D. be detained in our said prison of the Fleet, under your custody, for the cause aforesaid, and no other, then do you immediately discharge the said C. D. &c. (as before, § 35.) Witness *Charles Lord Tenterden, &c. (58.)*

(§ 47.)
The like, to the warden of the Fleet, where the prisoner had rendered himself in discharge of his bail, in K. B. and was removed from the Fleet, by *habeas corpus*.
Prac. 369.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas C. D. is detained in our prison, &c. (as before, § 38. to the end of the cause of detainer, and then as follows:) And whereas the said C. D. afterwards, that is to say, on the — day of — last past, was charged with a declaration, at the suit of the said A. B. in the plea last aforesaid: But because it sufficiently appears to our said justices at Westminster, that the said A. B. hath not further proceeded to judgment against the said C. D. within three terms after the delivery of the said declaration, as required by the rules of our court of the Bench, before our justices aforesaid; and that the said C. D. hath appeared in our said court, to answer the said A. B. in the plea last aforesaid; therefore we command you, that if the said C. D. be detained, &c. (as before, § 35.) Witness *Sir William Draper Best knight, &c. (15.)*

(§ 48.)
The like, in C. P. when defendant is in custody of the sheriff.
Prac. 369.

George the Fourth, &c. (14.) To the warden of our prison of the Fleet, greeting: Whereas C. D. on the — day of — last, &c. (as before, § 44. to the end of the cause of detainer, and then as follows:) And whereas the said C. D. after the said render and commitment, on the — day of — last past, was charged with a declaration, at the suit of the said A. B. in the plea aforesaid: And because it sufficiently appears to our said justices at Westminster, that the said A. B. hath not further proceeded to judgment, &c. (as in last, to the end.)

(§ 49.)
The like, when in custody of the warden.
Prac. 343. 361. 369.

(As in last, to the end of the cause of detainer, and then as follows:) And whereas the said A. B. had declared against the said C. D. in the plea aforesaid; but had not further proceeded to judgment thereupon, before the render and commitment aforesaid: And because it sufficiently appears to our said justices at Westminster, that the said A. B. hath not further proceeded to judgment, &c. (as in last but one, to the end.)

(§ 50.)
The like, on render after declaration.
Prac. 343. 361. 369.

(§ 51.)
The like, for
not charging
defendant in
execution, in
K. B.

Prac. 369.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas C. D. is detained in our prison, &c. (as before, § 35. to the end of the cause of detainer, and then as follows :) And whereas the said A. B. in — term last past, obtained judgment in our court before us, against the said C. D. upon the said writ: But because it appears to us, that the said A. B. hath not proceeded to charge the said C. D. in execution, within two terms after the said judgment so obtained, according to the course and practice of our said court before us; and because the said C. D. hath come into our said court before us, and filed common bail, &c. (as before, § 42.)

(§ 52.)
The like, in
C. P. when de-
fendant is in
custody of the
sheriff.

Prac. 343. 361.
369.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas C. D. is detained in our prison, &c. (as before, § 38. to the end of the cause of detainer, and then as follows :) And whereas the said A. B. afterwards, that is to say, in — term last past, obtained judgment in our court before our justices at Westminster, against the said C. D. in the plea aforesaid: And because the said A. B. hath not proceeded to charge the said C. D. in execution, within two terms next after the said judgment so obtained as aforesaid, according to the rules of our said court; therefore we command you, that if the said C. D. be detained in our said prison, under your custody, for the cause aforesaid, and no other, then do you immediately discharge the said C. D. &c. (as before, § 35.) Witness Sir William Draper Best knight, &c. (15.)

(§ 53.)
The like, when
in custody of
the warden.

Prac. 343. 361.
369.

George the Fourth, &c. (14.) To the warden of our prison of the Fleet, greeting: Whereas C. D. on the — day of — last, &c. (as before, § 44. to the end of the cause of detainer, and then as follows :) And whereas the said A. B. afterwards, that is to say, in — term last past, obtained judgment, &c. (as in last, to the end.)

(§ 54.)
The like, on
render after
judgment.

Prac. 343. 361.
369.

(As in last, to the end of the statement of the cause of detainer, and then as follows :) And whereas judgment had been obtained by the said A. B. against the said C. D. in the plea aforesaid; but the said A. B. had not proceeded to execution thereupon, before the render and commitment aforesaid: And because the said A. B. hath not proceeded to charge the said C. D. in execution, upon the said judgment, within two terms next after the render and commitment aforesaid, as required by the rules of our said court; therefore we command you, &c. (as in § 52. to the end.)

(§ 55.)
The like, in Ex-
chequer, for not
proceeding to
judgment in
due time.

Prac. 369.

George the Fourth, &c. (14.) To the warden of our prison of the Fleet, or his deputy there, greeting: Whereas A. B. our debtor, in our court before the barons of our Exchequer at Westminster, heretofore, to wit, in the term of — last past, impleaded C. D. being a prisoner in your custody, of a plea of trespass on the case upon promises, (or, as the plea is,) to the damage of the said A. B. of —l. as appears to us of record: And because the said A. B. hath not since that time proceeded to judgment against the said C. D. in the plea aforesaid, according to the course of our said court; and the said C. D. by G. H. his attorney, hath appeared in our said court, to answer the said A. B. in the plea aforesaid; therefore we command you, that if the said C. D. be detained, &c. (as in § 35.) Witness Sir William Alexander knight, &c. (125.)

George the Fourth, &c. (14.) To the warden of our prison of the *Fleet*, greeting: Whereas *A. B.* our debtor, &c. (*as in last, to the end of the cause of detainer, and then as follows:*) And whereas the said *A. B.* afterwards, that is to say, in — term last past, obtained judgment in the plea aforesaid, in our said court, before the barons of our said Exchequer, at *Westminster* aforesaid: And because the said *A. B.* hath not proceeded to charge the said *C. D.* in execution, within *two* terms next after the judgment obtained as aforesaid; therefore we command you, that if the said *C. D.* be detained in your custody, &c. (*as in § 35.*) Witness Sir *William Alexander* knight, &c. (125.)

(§ 56.)
The like, in
Exchequer, for
not charging
defendant in ex-
ecution.

Prac. 369.

To the Right Honourable *Charles* Lord *Tenterden*, and the rest
of the Judges of his Majesty's Court of King's Bench at
Westminster.

(§ 57.)
Petition for
day rule, in
K. B.

Prac. 374. 509.

The humble petition of *C. D.* a prisoner in actual custody of the marshal of this court, whose name is hereunto subscribed;

Sheweth,

That your said petitioner, having this day occasion to treat with his several creditors, advise with his counsel, and follow his several suits at law, in order to his discharge, humbly prays, that he may have leave to go out of the prison this day, for the purposes aforesaid, and to return again the same day.

And your petitioner shall ever pray, &c.

C. D.

England. Upon reading the petition of *C. D.* a prisoner in the custody of the marshal of the Marshalsea of this court, this day presented to this court, thereby praying that the said *C. D.* might have leave to go out of the said prison, for the purposes in the said petition set forth; it is ordered, that the said *C. D.* have leave to go out of the said prison, he returning again into the custody of the said marshal, on this day.

(§ 58.)
Day rule there-
on.

Prac. 374.

By the Court.

In the King's Bench, &c. (17.)

A. B. against *C. D.*

To Mr. *A. B.*

(§ 59.)
Notice by pri-
soner, of his in-
tention to peti-
tion, on the
lords' act.

Prac. 377.

Take notice, that I intend, at the expiration of fourteen days from the delivery hereof, or so soon after as I can be heard, to petition his majesty's court of King's Bench (Common Pleas, or Exchequer) at *Westminster*, for such relief and benefit as I am entitled to, by virtue of an act of parliament, made and passed in the thirty-second year of the reign of his late majesty king *George* the second, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates, for their creditors' benefit;" and also of an act made and passed in the thirty-third year of the reign of his late majesty king *George* the Third, intituled, "An act for the further

CHAP. XV. relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit ;" and also of an act made and passed in the thirty-seventh year of the same reign, intituled, " An act to amend so much of the first-mentioned act, as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in the cases therein mentioned ;" and that I have no debts, estate or effects whatsoever, nor had I at the time of my first imprisonment in this action, or at any time since, either in possession, reversion, remainder or expectancy, other than and except what are mentioned and contained in the schedule or inventory hereunder written, (*if there be one,*) and the necessary wearing apparel and bedding for myself and family, and the tools or instruments of my trade or calling, not exceeding the sum of *ten* pounds in value in the whole. As witness my hand, this — day of — 18—

Witness, *E. F.*

C. D.

(§ 60.)
Schedule.
Prac. 377.

A schedule or inventory of all the estate and effects, which I *C. D.* a prisoner in execution, in the custody of the marshal of the Marshalsea, (*or, of the warden of his majesty's prison of the Fleet, or, of G. H. Esquire, sheriff of the county of —,*) at the suit of *A. B.* or any person or persons in trust for me, was or were possessed of or entitled unto, at the time of my first imprisonment, at the suit of the said *A. B.* or at any time since, either in possession, reversion, remainder or expectancy, other than and except the necessary wearing apparel and bedding of or for me and my family, and the tools or instruments of my trade or calling, not exceeding *ten* pounds in value in the whole. As witness my hand, this — day of — 18—.

REAL ESTATE: (*describing it, if any, according to the mode pointed out by the statute ; or, if there be none, say, " I have none, either in possession, reversion, remainder or expectancy."*)

GOODS: (*setting them forth.*)

DEBTS: (*naming the persons from whom they are due, and stating the amount of them ; and, if arising on notes or bills, their dates, &c.*)

Witness *E. F.*

C. D.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

E. F. of — maketh oath and saith, that he was present, and did see the above-named defendant *C. D.* sign his name (*or mark*) to the notice and schedule hereunto annexed, on the day of the date thereof, and also to a copy of the same ; and that the name *E. F.* subscribed as a witness thereto, is of the proper hand-writing of this deponent.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

E. F.

E. F. of — maketh oath and saith, that he this deponent did, on — the — day of — instant, (*or last,*) personally serve the above-named plaintiff *A. B.* with a true copy of the notice (and schedule, *if any,*) hereunto annexed: (*or, did serve the above-named plaintiff A. B. with a true copy, &c. as above,*) by delivering the same to the wife (*or,*

(§ 61.)
Affidavit, to be
annexed to notice
and schedule.
Prac. 377.

(§ 62.)
Affidavit of service of notice
and schedule.
Prac. 377.

servant) of the said *A. B.* at his dwelling-house or place of abode, situate at —, in the county of —. CHAP. XV.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

E. F.

To the right honourable *Charles* Lord *Tenterden*, lord chief-justice of his majesty's court of King's Bench (*or, in C. P.* To the right honourable Sir *William Draper Best* knight, lord chief-justice of his majesty's court of Common Pleas) at *Westminster*, and the rest of the judges of the same court: (*or, in the Exchequer of Pleas*, To the right honourable Sir *William Alexander* knight, lord chief-baron of his majesty's court of Exchequer at *Westminster*, and the rest of the barons of the same court.)

(§ 63.)
Petition.
Prac. 377, 8.
509.

The humble petition of *C. D.*

Sheweth,

That your petitioner is a prisoner, in the custody of the marshal of the Marshalsea, (*or, of the warden of his majesty's prison of the Fleet, or, in his majesty's gaol in and for the county of —,*) charged in execution, at the suit of *A. B.* for the sum of —*l.* damages and costs, (*or, —*l.* debt, and —*l.* damages.*) by the certificate annexed more fully appears.

That your petitioner humbly apprehends he is entitled to the benefit of an act of parliament, made and passed in the thirty-second year of the reign of his late majesty king *George* the Second, intituled "An act for the relief of debtors, &c." (135.) and also of an act made and passed in the thirty-third year of the reign of his late majesty king *George* the Third, intituled, "An act for the further relief of debtors, &c." (135, 6.) and also of an act made in the thirty-seventh year of the same reign, intituled, "An act to amend so much of the first-mentioned act, as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in cases therein mentioned."

That your petitioner hath not, at the time of exhibiting this his petition, nor had he at the time of his first imprisonment in this action, or at any time since, any debts, estate or effects whatsoever, either in possession, reversion, remainder, or expectancy, other than and except what are mentioned and contained in the schedule or inventory hereunto annexed, (*if there be one,*) and the necessary wearing apparel and bedding for himself and family, and the tools or implements of his trade and calling, not exceeding the sum of *ten* pounds in value in the whole.

Your petitioner being willing and desirous to conform himself to the directions of the said several acts, most humbly prays your lordships, (*or, in the Exchequer, your honours,*) to grant a rule or order of this honourable court, for the plaintiff to shew cause, why he should not be discharged, pursuant to the said acts.

And your petitioner, as in duty bound, will ever pray, &c.

C. D.

Schedule (*if any,*) as before, § 60.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

(§ 64.)

I *G. H.* gaoler or keeper of his majesty's gaol of —, in and for the county of —, do hereby certify, that the above-written is a true copy of the sheriff's warrant, on which the defendant *C. D.* was taken, and by

Gaoler's certificate, to be written under copy of sheriff's warrant.

Prac. 377, 8.

CHAP. XV. virtue whereof he was committed into my custody, on the — day of — last, and hath ever since continued therein; nor have I any other detainer against him. As witness my hand, the — day of — 18—.

Witness, *J. K.*

G. H.

(§ 65.)
The like, where
prisoner is de-
tained on several
warrants.

Prac. 377, 8.

I *G. H.* gaoler or keeper of his majesty's gaol of —, in and for the county of —, do hereby certify, that *C. D.* is now detained in my custody, by virtue of the several warrants, true copies of which are above written; and that the said *C. D.* was taken and committed to my custody, on the — day of — last, by virtue of a warrant, a copy of which is first above written; and that the other warrants, copies of which are also above written, were severally lodged with me, as detainers against the said *C. D.* on the days on which they respectively bear date; and that I have no other detainer against him. As witness my hand, this — day of — 18—.

Witness, *J. K.*

G. H.

(§ 66.)
Affidavit of
gaoler's signa-
ture to certifi-
cate.

Prac. 378.

E. F. of — maketh oath and saith, that he this deponent did, on the — day of — instant, (or last,) see *G. H.* the keeper of his majesty's gaol or prison of —, sign the certificate hereto annexed; and that the name *G. H.* set and subscribed at the foot of the said certificate, is of the proper hand-writing of the said *G. H.*

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

E. F.

(§ 67.)

Rule in K. B.
for bringing pri-
soner into court.

Prac. 378.

In the King's Bench.

— the — day of — 18—.

B. } Upon reading the petition of the defendant, the marshal's
v. } certificate thereto annexed, the several affidavits of *E. F.* and
D. } the notice and schedule thereto annexed; it is ordered, that
a prisoner. } the plaintiff, upon notice of this rule to be given to him, shall
upon — the — day of — next, at *Westminster-hall*, at — of the
clock in the forenoon of the same day, shew cause, why the said defendant
should not be discharged out of the custody of the marshal of the Mar-
shalsea, as to the execution at the suit of the said plaintiff; and that
the said marshal do bring the said defendant to the said place, at the time
aforesaid.

By the Court.

In the Common Pleas.

— term, &c. (23.)

(§ 68.)
The like, in
C. P.

Prac. 378.

B. } Upon reading the defendant's petition, and the notice and
v. } schedule, and certificate, thereto annexed, and the several
D. } affidavits of *E. F.* it is ordered, that the warden of his ma-
a prisoner. } jesty's prison of the *Fleet*, upon notice of this rule, to be
given to him or his deputy, do, in pursuance of the acts of parliament
made for the relief of debtors, with respect to the imprisonment of their
persons, cause the body of the defendant to be brought into this court,
on — the — day of — next, by — o'clock in the forenoon of
the same day; and that the plaintiff, upon notice of this rule to be given
him, according to the directions of the said acts, do then attend this
court, in person or by his attorney, and shew cause, (if any he can,)
why the said defendant should not be discharged out of custody of the

said warden of the *Fleet*, from the execution wherewith he stands charged at the plaintiff's suit, in this action, pursuant to the directions of the said acts of parliament. CHAP. XV.

By the court of Common Pleas, at *Westminster*.

Griffith.

In the King's Bench, (or Common Pleas.)

B. } Upon reading the petition of the defendant, the copy of
v. } the sheriff's warrant, the certificate of the keeper of the
D. } gaol in and for the county of —, and the notice and
a prisoner. } schedule thereto annexed; it is ordered, that the said
keeper shall carry the defendant before the judges, who shall hold the next assizes (or, if he is to be brought to the sessions, "before his majesty's justices, who shall hold the next general or quarter sessions") in and for the said county; and that a copy hereof be delivered to the plaintiff, or left for him at his usual place of abode, at least *fourteen* days before the said assizes, (or, sessions,) that he may personally, or by his attorney, shew cause, (if any he can,) against the discharge of the said defendant, out of the custody of the sheriff of the said county, as to the execution with which he stands charged at his suit, pursuant to the several acts of parliament made for the relief of debtors, with respect to the imprisonment of their persons.

By the Court.

E. F. of — maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve the above-named *A. B.* with a true copy of the rule hereto annexed; (or, if the service was on his wife or servant, say, "serve the above-named *A. B.* with a true copy, &c. (as above,) by delivering the same to the wife, or servant, of the said *A. B.* at his dwelling house or place of abode, situate at — in the county of —;" adding, in the Common Pleas or Exchequer, "and at the same time shewed him the said original rule."

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

E. F.

In the King's Bench.

— the — day of —, 18—.

B. } Upon reading the rule made in this cause, on — the
v. } — day of — last, and the affidavit of *E. F.* and no
D. } cause being shewn to the contrary, it is ordered, that the
a prisoner. } defendant be discharged out of the custody of the marshal of the Marshalsea, as to this action.

By the Court.

(*Title as above.*)

B. } Upon reading the rule made in this cause, on — the
v. } — day of — last, and the affidavit of *E. F.* it is or-
D. } dered, that the defendant be remanded into the custody
a prisoner. } of the marshal of the Marshalsea, until — the — day
of — next; and that the said marshal do bring the said defendant into *Westminster Hall*, at — of the clock in the morning of the same day, for the purposes in the said rule mentioned, upon notice of this rule in the mean time given to the plaintiff, his attorney or agent.

By the Court.

(§ 69.)

The like, for bringing him to the assizes, or sessions.

Prac. 379.

(§ 70.)

Affidavit of service of rule.

Prac. 378.

(§ 71.)

Rule for discharging prisoner, in K. B.

Prac. 379.

(§ 72.)

The like, for remanding him, in K. B.

Prac. 379.

(§ 73.)
Note, for pay-
ment of allow-
ance.
Prac. 381.

A. B. } I hereby promise to pay and allow to *C. D.* three shillings and
v. } sixpence *per* week, weekly, on *Monday* in every week, for so
C. D. } long time as he shall continue in prison, in execution at my suit.
As witness my hand, this — day of — 18—. *A. B.*
Witness, *E. F.*

(§ 74.)
Affidavit of sig-
nature to same.
Prac. 381.

In the King's Bench, &c. (17.) *A. B.* plaintiff, &c. (*id.*)
E. F. of — maketh oath and saith, that he this deponent was pre-
sent, and did see the above-named *A. B.* sign his name to the note or
undertaking hereunto annexed, on the day of the date thereof: And this
deponent further saith, that the name *A. B.* set and subscribed to the
said note or undertaking, as the party signing the same, is of the proper
hand-writing of the said *A. B.*; and that the name *E. F.* set and sub-
scribed as a witness to the said note or undertaking, is of the proper hand-
writing of this deponent.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.) *E. F.*

(§ 75.)
The like, on an
attachment for
contempt, in
K. B.
Prac. 381.

In the King's Bench. The King against *C. D.* .
Upon an attachment for contempt, in not paying —*l.* to *A. B.* pur-
suant to a rule of court.

E. F. of — maketh oath and saith, that he was present, and did see
the above-named *A. B.* duly sign, &c. (*as in last.*)

(§ 76.)
Rule of court,
for remanding
defendant, in
Exchequer.
Prac. 380.

A. B. against *C. D.* a prisoner.
On which day, the said defendant was brought up into court, pursuant
to an order made on the — day of — last, for that purpose; and
having taken the oath directed to be taken by the act of the thirty-second
year of the reign of his late majesty king *George* the Second; and the
plaintiff objecting to the discharge of the said defendant, and personally
in court duly signing his note of hand, undertaking to pay and allow the
said defendant three shillings and sixpence *per* week, weekly, on *Monday*
in every week, for so long time as the said defendant shall continue in
prison, in execution at his suit: Ordered thereupon, that the said defend-
ant be, and he is hereby remanded to the custody of the warden of his
majesty's prison of the *Fleet*, there to remain until, &c.

By the Court. *Rose.*

(§ 77.)
Notice, on com-
pulsive clause,
to prisoner.
Prac. 383.

In the King's Bench, (*or* Common Pleas.) *A. B.* against *C. D.*
Sir, a prisoner.

Take notice, that I do hereby require you to give in to this honourable
court, within the first seven days of the term next ensuing the expiration
of this notice, (*or, if the prisoner be charged in execution in a county
gaol, above twenty miles from Westminster Hall, "I do hereby require
you to give in, upon oath, at the next assizes to be holden at —, in
and for the county of —, and on the crown side thereof,"*) a true account
in writing, signed by you, of all your real and personal estate, and of all
incumbrances affecting the same, according to the best of your knowledge
and belief, in order that your estate and effects may be divested out of
you, and may, by the judges of the said court, (*or, by the justices at the
said assizes,*) be ordered to be assigned and conveyed, in manner and for

the purposes declared in and by a certain act of parliament, made and passed in the 32d year of the reign of his late majesty king *George* the Second, intituled, "An act for the relief of debtors, &c." (135.); and also in and by a certain act of parliament, made and passed in the 33d year of the reign of his late majesty king *George* the Third, intituled, "An act for the further relief of debtors, &c." (135, 6.) Dated the —— day of —— 18—. CHAP. XV.

To Mr. *C. D.* *A. B.*
the above-named plaintiff.
the above-named defendant.

In the King's Bench, &c. (17.) *A. B.* against *C. D.* a prisoner. (§ 77. a.)
Sir, The like, another way.
Prac. 383.

Take notice, that I intend, on the first day of next —— term, or as soon after as I can be heard, to petition his majesty's court of King's Bench (Common Pleas, *or* Exchequer) at *Westminster*, for a rule or order of the same court, directing you to be brought up into this honourable court, in order that you may be compelled to discover and deliver into the said court, upon oath, a true account in writing, &c. (*as in last.*)

In the King's Bench, &c. (17.) *A. B.* plaintiff, &c. (*id.*) (§ 77. b.)
I. K. clerk to *F. F.* of ——, attorney (*or*, agent) for the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the —— day of —— instant, (*or*, last past,) serve the above-named defendant *C. D.* with a duplicate of the notice hereunto annexed, by delivering the same to, and leaving the same with him the said *C. D.* in his majesty's gaol or prison of ——, in the county (*or* city) of —— Affidavit of service thereof.
Prac. 384.

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

In the King's Bench, &c. (17.) *A. B.* against *C. D.* a prisoner. (§ 78.)
Sir, Notice, on compulsive clause, to other creditors.
Prac. 383.

Take notice, that it is my intention to require the above-named defendant, *C. D.* to be brought up into this honourable court, within the first seven days of the term next ensuing the expiration of this notice, (*or*, at the assizes, before the justices of assize, at the next assizes to be holden at ——, in and for the county of ——,) and to give in upon oath to the said court, (*or*, to the said justices, at the said assizes,) a true account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and may, by the judges of the said court, (*or*, by the justices at the said assizes,) be ordered to be assigned and conveyed, in manner and for the purposes declared in and by a certain act of parliament, made and passed in the 32d year of the reign of his late majesty king *George* the Second, intituled, "An act for the relief of debtors," &c. (*as above.*)

To *G. H.* (&c.) creditors of } *A. B.*
the above-named defendant. } the above-named plaintiff.

(§ 78. a.)
The like, another way.

Prac. 383.

In the King's Bench, &c. (17.)

A. B. against *C. D.*
a prisoner.

Take notice, that I intend, on the first day of next — term, or as soon after as I can be heard, to petition his majesty's court of King's Bench (Common Pleas, or Exchequer) at *Westminster*, for a rule or order of the same court, directing the above-named defendant *C. D.* to be brought up into this honourable court, in order that he may be compelled to discover and deliver into the said court, upon oath, a true account in writing, &c. (*as in last.*)

(§ 78. b.)
Affidavit of service thereof.

Prac. 384.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

I. K. of —, clerk to *E. F.* gentleman, attorney (*or agent*) for the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, (*or, last past,*) serve *G. H.* of —, &c. (*naming the creditors.*) with the notice hereunto annexed, by delivering to each of them personally, a duplicate of the said notice, under the proper hand of *A. B.* the plaintiff above-named.

I. K.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

(§ 79.)
Notice to sheriff or gaoler, on compulsive clause.

Prac. 383.

(*As in § 78. or 78. a. to the end, and then as follows:*) And I do hereby require you to bring up the said *C. D.* who is now a prisoner for debt in his majesty's gaol or prison of —, in and for the county (*or city*) of —, into this honourable court, accordingly, for the purposes aforesaid, together with a copy or list of the causes in which he the said *C. D.* is detained in custody, or charged in execution. Dated this — day of — 18—.

A. B.

To the gaoler or keeper of his majesty's } the above-named plaintiff.
prison of —, in and for the county }
(*or city*) of —.

(*The affidavit of the service of this notice is similar to the above.*)

(§ 79. a.)
Certificate, or copy of causes, by the Warden of the *Fleet*.

Prac. 384.

The *Fleet*, } *C. D.* on the — day of — 18—, was committed, &c.
to wit. } in execution, by the honourable court of Common Pleas, upon a writ of *habeas corpus*, directed to the marshal, &c. and returnable before the justices at *Westminster*, on — next after —, to satisfy *I. S.* —*l.* which were adjudged to him, for his damages which he sustained, whereof, &c.: And by the said marshal's return it appears, that on the — day of — 18—, *C. D.* in the said writ named, was committed, &c. to the said marshal's custody, in execution, and for want of bail, upon a writ of *habeas corpus*, directed to the warden of the *Fleet*, returnable in court, on — next after —, to satisfy *I. T.* —*l.* which he recovered for his damages, costs and charges, whereof, &c.; and by the return it appears, that on the — day of — 18—, he was surrendered, &c. into the said warden's custody, with the filacer of —, in discharge of his bail, at the suit of the said *I. S.* (Oath —*l.*) and was thereupon committed by the honourable Mr. Justice —.

On the — day of —, he was charged with a declaration, at the suit of *A. B.* Damages —*l.* Bail for —*l.* and upwards. *E. F.* (*attorney's name.*)

On the — day of — 18—, a writ of *habeas corpus* was left, returnable before the king's justices at *Westminster*, on — the — day of — next, to satisfy the said *A. B.* —*l.* which were adjudged to him, for his damages which he sustained. *E. F.* (*attorney's name.*)

On the — day of — 18—, he was taken into court, and charged in execution, at the above suit, for —*l.* being part of the sum of —*l.* damages, &c. And for no other cause is he detained in my custody, as appears by the books. Dated the — day of — 18—.

W. R. H. Brown, warden.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

To the right honourable *Charles Lord Tenterden*, &c. (137.)

The humble petition of *A. B.* the above-named plaintiff;

Sheweth,

That the said *C. D.* the above-named defendant, is a prisoner in the custody of the sheriff of the county of —, (*or, if in the King's Bench prison*, in the custody of the marshal of this honourable court; *or, if in the Fleet prison*, in the custody of his majesty's warden of the *Fleet*,) charged in execution, at the suit of your petitioner, for the sum of —*l.* as appears by the annexed certificate.

That your petitioner apprehends he is authorized and empowered, by virtue of the compulsive clause in an act of parliament, made and passed in the 32d year of the reign of his late majesty king *George* the Second, intituled, "An act for the relief of debtors, &c." (135.) and also of an act of parliament, made and passed in the 33d year of the reign of his late majesty king *George* the Third, intituled, "An act for the further relief of debtors, &c." (135, 6.) to compel the above-named *C. D.* to deliver into this honourable court, (*or, at the assizes to be holden in and for the county of —, and on the crown side thereof,*) upon oath, a true account in writing, signed by the said defendant, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and assigned and conveyed, in manner and for the purposes declared in the said several acts.

Your petitioner therefore humbly prays your lordships, to grant him a rule or order of this honourable court, for the above-named defendant *C. D.* to shew cause, why he should not conform himself to the directions of the said acts.

And your petitioner, as in duty bound, will ever pray, &c. *A. B.*

the above-named plaintiff.

In the Common Pleas.

— term, &c. (23.)

A. B. against *C. D.* a prisoner. — the — day of —. Upon reading the petition of the plaintiff, and the certificate thereto annexed, the several affidavits of *I. K.* and the paper writings thereto annexed respectively, it is ordered, that the warden of his majesty's prison of the *Fleet*,

(§ 79. b.)
Petition for rule,
to bring prisoner into
court.

Prac. 388, 4.

(§ 79. c.)
Rule for bringing
prisoner into
court, in C. P.

Prac. 388, 4.

CHAP. XV. upon notice of this rule, to be given to him or his clerk of the papers, do, in pursuance of the acts of parliament hereinafter-mentioned, cause the body of the defendant to be brought into this court, on — next, by — of the clock in the forenoon of the same day; and that the defendant, upon the like notice of the rule to be given to him, do and shall, at the time he is so brought into this court as aforesaid, deliver into this court, upon oath, a true account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that the same may be divested out of him, and may by the court be ordered to be assigned and conveyed, in manner and for the purposes declared by the acts of parliament made for the relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the acts, to make discovery of, and deliver, upon oath, their estates, for their creditors' benefit.

On the motion of Serjeant *F. Lawes*, for the plaintiff. By the Court.
Griffith.

(§ 79. d.)
Memorandum
of creditors'
consent to
prisoner's
discharge.

Prac. 384.

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (*id.*)

In the matter of an application by the above-named plaintiff, for a rule or order of this honourable court, for the above-named defendant *C. D.* to shew cause, why he should not conform himself to the directions of an act of parliament, made and passed in the 32d year of the reign of his majesty king *George* the Second, intituled, "An act for the relief of debtors, &c." (135.) and also of a certain act of parliament, made and passed in the 33d year of the reign of his late majesty king *George* the Third, intituled, "An act for the further relief of debtors, &c." (135, 6.) and to compel the said defendant *C. D.* to deliver into this honourable court, upon oath, a true account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and be assigned and conveyed, in manner and for the purposes declared in the said several acts.

We the undersigned, being respectively creditors of the above-named *C. D.* at whose respective suits he is charged in custody, or in execution, in his majesty's gaol or prison of —, in the county (*or* city) of —, do hereby respectively consent to the said *C. D.*'s being discharged out of gaol, at our respective suit or suits, on his conforming himself to the directions of the said acts: And we do also respectively agree to take and accept our proportionable dividends of the said *C. D.*'s estate and effects, with the above-named plaintiff, in discharge of our respective debts against the said *C. D.* As witness our hands, this — day of — 18—.

Signed by the above-named *G. H.* &c. } *G. H.* &c. (*creditor's names.*)
in the presence of . *I. K.* }

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

(§ 79. e.)
Affidavit of execution thereof.
Prac. 384, 5.

In the matter of an application, &c. (*as in last.*)

I. K. of —, clerk to *E. F.* of — gentleman, attorney for the above-named plaintiff, maketh oath and saith, that he was present, and did see *A. B.* the above-named plaintiff, and also *G. H.* of —, &c. (*naming the creditors who executed the consent,*) severally sign and subscribe their respective names to the consent or agreement hereunto annexed; and that the names or signatures *A. B.* and *G. H.* (&c.) respectively signed and subscribed to the said consent or agreement hereunto annexed, are of the respective proper hand-writing of the said *A. B.* and *G. H.* (&c.) and that the signature *I. K.* subscribed to the attestation of the said consent or agreement, as attesting witness to the said several signatures, is of the proper hand-writing of him this deponent.

I. K.

Sworn, &c. (*Post, Chap. xix. § 6, &c.*)

In the King's Bench, &c. (17.)

A. B. plaintiff, &c. (id.)

(§ 79. f.)
Certificate of proper persons to be appointed assignees.
Prac. 384, 5.

In the matter of an application, &c. (*as in last but one.*)

We the under-signed, being respectively creditors of the above-named defendant *C. D.* at whose respective suits he is charged in custody, or in execution, in his majesty's gaol or prison of —, in the county (*or city*) of —, do hereby certify and declare to this honourable court, that *A. B.* of —, *I. S.* of —, and *I. T.* of —, three of the said *C. D.*'s creditors, are fit and proper persons to be appointed assignees of the said *C. D.*'s estate and effects, under the above-mentioned acts of parliament; and we do humbly request the judges of this honourable court to appoint the said *A. B. I. S.* and *I. T.* assignees accordingly. Dated the — day of — 18—.

A. B. &c. (creditor's names.)

We agree to accept of the above-mentioned trust, and promise to execute the same.

A. B. (&c.)

(§ 79. g.)
Consent of nominees to appointment.
Prac. 384, 5.

The above written certificate and request were signed by the said *A. B. &c.* (*the consenting creditors;*) and the above-written agreement or acceptance of trust was signed by the said *A. B. &c.* (*the assignees,*) in the presence of —, (*witnesses names.*)

Attestation.

(*The affidavit of the execution of the above certificate, &c. is similar to that of the execution of the consent, for which vide supra.*)

(§ 79. h.)
Affidavit of execution of certificate, &c.

In the Common Pleas.

Upon reading a rule made in this cause, on — last, and the defendant being brought into this court pursuant thereto, and he having delivered into this court, upon oath, an account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, to the best of his knowledge and belief, and on hearing counsel on both sides; It is ordered, that the defendant do and shall assign and convey all his real and personal estate, in manner and for the purposes declared by the acts of parliament in the said rule mentioned; but the said defendant

(§ 79. i.)
Rule for prisoner to assign his estate; and that he be remanded, for not assigning it.
Prac. 384, 5.

CHAP. XV. having declined so to do, It is ordered, that he be remanded to prison ; and that the warden of his majesty's prison of the *Fleet*, upon notice of this rule to be given to him or his clerk of the papers, do bring the defendant into this court, on ----- next, for that purpose. By the Court.

On the motion of Serjeant *E. Lawes* for the } *Griffith.*
 plaintiff, Serjeant *Andrews* for the defendant. }

(§ 79. k.)

Rule for remanding him, on being again brought up.

Prac. 384, 5.

(*Title as in last.*)

Upon reading a rule made in this cause, on ----- the ----- day of ----- instant, another rule made in this cause on ----- last, and the defendant being brought into this court pursuant thereto, and having again declined to execute an assignment of all his estate and effects, pursuant to the said rules ; and on hearing counsel on both sides ; It is ordered, that the said defendant be remanded to prison. By the Court.

On the motion, &c. (*as in last.*)

Griffith.

(§ 80.)

Notice of prisoner's intention to apply for his discharge, on stat. 48 Geo. III. c. 123.

Prac. 387, 8.

In the King's Bench, (*or* Common Pleas.) *A. B.* plaintiff, &c. (17.)

Mr. A. B.

Take notice, that I shall, on ----- next, or as soon after as counsel can be heard in this behalf, make application to his majesty's court of King's Bench (*or*, Common Pleas) at *Westminster*, to be discharged out of the custody of the sheriff of -----, (*or*, of the marshal of the Marshalsea, *or* warden of the *Fleet*,) as to this action, at your suit, according to the form of the statute in such case made and provided ; I having lain in prison for the space of *twelve* successive calendar months, in execution upon the judgment herein obtained by you, for damages (*or*, debt and damages) not exceeding the sum of *twenty* pounds, exclusive of costs ; and hereunder written is a copy of the affidavit, upon which I shall ground the said application. *C. D.*

Witness, *I. K.*

(*Title as in last.*)

(§ 81.)

Affidavit, to obtain the above rule.

Prac. 387, 8.

C. D. the above-named defendant, now a prisoner in the King's Bench prison, (*or*, in the prison of the *Fleet*, *or* county gaol of -----,) maketh oath and saith, that in ----- term, in the year of our Lord 18—, *A. B.* the above-named plaintiff, obtained a judgment in this suit, against this deponent, for -----l. damages, (*or*, debt and damages,) exclusive of costs. And this deponent further saith, that on the ----- day of ----- in the year aforesaid, he this deponent was charged in execution upon the said judgment, at the suit of the said *A. B.* and hath ever since been detained in custody, and hath lain in prison in the King's Bench prison (*or*, prison of the *Fleet*, *or* county gaol of -----) aforesaid, in execution upon the said judgment as aforesaid. *C. D.*

Sworn, &c. (*Post*, Chap. xix. § 6, &c.)

CHAP. XVI.

WRITS of CERTIORARI, and HABEAS CORPUS, &c. for the
REMOVAL of CAUSES from INFERIOR COURTS; and PRO-
CEEDINGS thereon.

GEORGE the Fourth, &c. (14.) To ———*, greeting: We being willing, for certain causes, to be certified of a plaint levied in our court before you, against *C. D.* at the suit of *A. B.* of a plea of trespass on the case, (*or as the plea is,*) command you, that you send to us at *Westminster*, on ——— next after ———, (*or, in C. P. to our justices at Westminster, on ———, or, in the Exchequer, to the barons of our Exchequer at Westminster, on ——— next coming,*) the plaint aforesaid, with all things touching the same, as fully and entirely as it remains in our court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Charles Lord Tenterden*, (*or, in C. P. Sir William Draper Best knight, or, in the Exchequer, Sir William Alexander knight,*) at *Westminster*, the ——— day of ———, in the ——— year of our reign.

Borough of ———.

I *F. F.* Esquire, mayor of the borough of ——— aforesaid, to our lord the king do most humbly certify, that before the coming of the writ of our said lord the king to me directed, and to this schedule annexed, to wit, on the ——— day of ——— in the ——— year of the reign of our said lord the king, *A. B.* complained of *C. D.* in the aforesaid writ severally named, in a plea of trespass upon the case, (*or as the plea is;*) and that afterwards, and before the coming of the aforesaid writ, to wit, on the ——— day of the same month of ———, the serjeants at mace of the said borough returned a *nil*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof; whereupon a *capias ad respondendum* was awarded by the said court, against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid: And that afterwards, and also before the coming of the said writ, to wit, on the ——— day of the said month of ———, the serjeants at mace of the said borough returned the said *capias*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof, and that the said *C. D.* was not found

(§ 1.)
Certiorari, to remove a cause from an inferior, to a superior court.
Prac. 397, 8.
403.

(§ 2.)
Return thereto of proceedings in a borough court.
Prac. 407. (b.)

* For the mode of directing the writ, *vide post*, p. 156, &c.

CHAP. XVI. within the said borough; which said *capias* was then and there filed of record: And that afterwards, and also before the coming of the said writ, to wit, on the — day of the said month of —, another *capias ad respondendum* was awarded by the said court against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid: And that afterwards, and also before the coming of the said writ, to wit, on the — day of — then next, the serjeants at mace of the said borough returned the said last-mentioned *capias*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof; a true copy of which appears to have been served on the said *C. D.* on the — day of the month of —, by *G. H.* one of the serjeants at mace of the said borough; which said last-mentioned *capias* was then also filed of record: And that on the said — day of —, at the said court of our said lord the king of the said borough, an appearance was entered for the said defendant. And this is the tenor of the record and process of the said plaint, had and prosecuted before me the mayor of the borough aforesaid.

E. F. Mayor.

(§ 3.)
Certiorari to the mayor, &c. of *London*, to remove bill original, and attachment.

Prac. 397, 8.

George the Fourth, &c. (14.) To the mayor aldermen and sheriffs of *London*, greeting: We being willing, for certain causes, to be certified as well of a certain bill original in our court before you, or some of you, levied or affirmed against *C. D.* late of —, at the suit of *A. B.* of a plea of *debt* on demand for — *l.* as of a certain attachment thereupon made of — *l.* in the hands and custody of *E. F.* being attached and defended; command you, and every of you, that you send to us at *Westminster*, on — next after —, (or, in *C. P.* to our justices at *Westminster*, on —,) the bill original and attachment aforesaid, with all things touching the same, as fully and entirely as they remain in our court before you, or any of you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Charles* Lord *Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight,) at *Westminster*, the — day of —, in the — year of our reign.

(§ 4.)
Return thereto, of proceedings in the mayor's court, by foreign attachment.

Prac. 407, (b.)

London, (to wit.) We — mayor, and the aldermen of the city of *London*, and also — and — sheriffs of the same city, do certify to our sovereign lord the king at *Westminster*, on — next after —, that before the coming of this writ to us, and to this schedule annexed, to wit, on the — day of —, in the — year of the reign of our said lord the king, *A. B.* in his own proper person, came into the court of our lord the king, holden before — mayor, and the aldermen of the city of *London*, in the chamber of the *Guildhall* of the said city, situate in the parish of *St. Michael Bassishaw*, in the ward of *Bassishaw*, *London*; and then and there, according to the custom of the said city, affirmed against *C. D.* in the said writ named, a certain bill original, in a plea of *debt* upon demand of — *l.* of lawful money of *Great Britain*: and the said *A. B.* found pledges to prosecute his said bill, to wit, *John Doe* and *Richard Roe*; and at the same court, appointed in his stead *E. F.* his attorney, in the plea of the same bill original; and by his said attorney, prayed pro-

cess to be awarded against the said *C. D.* in the plea aforesaid, according to the custom of the said city; and it was then and there granted to him, &c.: Whereupon, at the petition of the said *A. B.* made to the said court, by his said attorney, it was by the same court commanded to *G. H.* one of the serjeants at mace of the same court, that he, according to the custom of the said city, should summon by good summoners, the said *C. D.* to appear in the same court, to answer the said *A. B.* in the plea aforesaid: At which said court, the said serjeant at mace, according to the custom of the said city, returned and certified to the said court, according to the tenor of the said precept, that the said *C. D.* had nothing in the said city, whereby he could be summoned, nor was to be found within the same: Whereupon, at the same court, the said *C. D.* was solemnly called, and appeared not, but made default: And thereupon afterwards, at the same court, it was notified and made known to the said court, by the said *A. B.* by his said attorney, that *I. K.* and *L. M.* in the said writ also named, did owe to the said *C. D.* — *l.* in monies numbered, and then had and detained the same in their hands and custody: And thereupon the said *A. B.* by his said attorney, prayed process of the same court, according to the custom of the said city, to attach the said *C. D.* by his said monies, so being in the hands and custody of the said garnishees as aforesaid, and the same in their hands and custody to defend and keep, according to the custom of the said city, so that the said *C. D.* should appear in the same court, according to the custom of the said city, to answer the said *A. B.* in the plea aforesaid: And thereupon, at the petition of the said *A. B.* made to the said court by his said attorney, it was commanded by the same court, to the said serjeant at mace, that he, according to the custom of the said city, should attach the said *C. D.* by the said — *l.* in monies numbered, in the hands and custody of the said garnishees, and the same in their hands and custody should defend and keep, according to the custom of the said city, so that the said *C. D.* should appear at the next court, to be holden before the mayor and aldermen, in the chamber of the *Guiklhull* in the same city, according to the custom of the said city, to answer the said *A. B.* in the plea aforesaid; and the same day is given by the court to the said *A. B.* to be there, &c.: Whereupon afterwards, to wit, at a court holden, &c. on the — day of — in the year aforesaid, the said *A. B.* by his said attorney, appeared; and the said serjeant at mace returned and certified to the said court, that he, on the — day of — aforesaid, between the hours of 10 and 11 in the forenoon, according to the custom of the said city, had attached the said *C. D.* by the said — *l.* in monies numbered, being in the hands and custody of the said garnishees, and the same in their custody had defended, &c. so that the said *C. D.* should appear at the same court, to answer the said *A. B.* in the plea aforesaid; and at the same court, the said *A. B.* by his said attorney, offered himself against the said *C. D.* in the plea aforesaid; and the said *C. D.* at the petition of the said *A. B.* by his said attorney, was solemnly called, and appeared not, but then and there made his *first* default; which said first default, at the same court,

CHAP. XVI. was recorded against the said *C. D.* in the plea aforesaid, according to the custom of the said city: And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden, &c. to answer the said *A. B.* in the plea aforesaid: At which said next court, holden according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid, according to the custom of the said city; and the said *C. D.* at the petition of the said *A. B.* by his said attorney, was at the same court solemnly called, and did not appear, but made a *second* default; which said second default was recorded, &c.: And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden, &c. to answer the said *A. B.* in the plea aforesaid: At which said next court, holden according to the custom of the said city, on the — day of —, the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid: And the said *C. D.* at the petition of the said *A. B.* by his said attorney, was at the same court solemnly called, and did not appear, but made a *third* default; which said third default was recorded, &c.; And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the same city, to answer the said *A. B.* in the plea aforesaid: At which said next court, holden according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid; and the said *C. D.* at the petition of the said *A. B.* by his said attorney, was at the same court solemnly called, and did not appear, but made a *fourth* default; which said fourth default was recorded, &c.: And thereupon, after the said four defaults recorded by the said court against the said *C. D.* in the plea aforesaid, according to the custom of the said city, at the petition of the said *A. B.* made to the said court by his said attorney, it was commanded by the said court, to the said serjeant at mace, that he, according to the custom of the said city, should warn and make known to the said *I. K.* and *L. M.* to appear at a court to be holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the city of *London*, according to the custom of the said city, on the — day of —, to shew cause, if any they had, why the said *A. B.* should not have execution against them, for the said sum of — *l.* in monies numbered, so attached in their hands as aforesaid, and that the said serjeant at mace should return and certify to the same court, what he should do by virtue of the said precept; and the same day was given by the said court, to the said *A. B.* to be there, &c.: At which said court, holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the said city, according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared: And the said serjeant at mace returned and certified to the said court, that he, by virtue of the said precept to him directed, had warned

and made known to the said garnishees, to appear at the same court, to shew cause as aforesaid, as by the said precept he was required: Whereupon, at the petition of the said *A. B.* made to the said court, by his said attorney, the said garnishees were then and there solemnly demanded, and appeared, and appointed in their stead *G. H.* their attorney, and by their attorney pleaded to the said attachment, and issue was joined between the said parties: And so the said bill original, and attachment thereupon made, remain in the same court undetermined.

And this is the tenor of the bill original and attachment aforesaid, whereof mention is made in the said annexed writ, as the same remains before us: which, with all things touching the same, we certify, as by the said writ is required.

George the Fourth, &c. (14.) To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol*, of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city, of their court of *Picpowder*, and every of them, greeting: We being willing, for certain causes, to be certified, as well of all plaints in our court before you, or any of you, levied or affirmed against *C. D.* at the suit of *A. B.* as of all attachments upon those plaints, or any of them, made in the hands of *E. F.* and *G. H.* or either of them; command you, and every of you, that you send the said plaints and attachments, and every of them, with all things touching the same, before us at *Westminster*, on — next after —, (or, in *C. P.* before our justices at *Westminster*, on —,) as fully and entirely as they remain before you, or any of you, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Charles Lord Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight,) at *Westminster*, &c. (148.)

(§ 5.)
Certiorari, to the mayor, &c. of *Bristol*, to remove all plaints and attachments.
Prac. 397, 8.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We being willing, for certain causes, to be certified of a certain plaint, in our court of common bench for our said county palatine, against *C. D.* at the suit of *A. B.* of a plea of trespass; do command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to our prothonotary of our said court of common bench for our said county palatine of *Lancaster*, you command the same prothonotary, that he certify to you without delay the plaint aforesaid, with all things touching the same, as fully and entirely as it remains before him, by whatsoever names the said *C. D.* and *A. B.* may be called in the same, that you may certify the same to us at *Westminster*, on — next after —, (or, in *C. P.* to our justices at *Westminster*, on —,) together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness, &c. (148.)

(§ 6.)
The like, to obtain *certiorari*, from the Common Pleas at *Lancaster*.
Prac. 399.

In the King's Bench, (or Common Pleas.)

E. F. of — gentleman, attorney for *A. B.* in a certain suit herein-after mentioned, and *G. H.* of —, (serjeant at mace, &c.) severally

(§ 7.)
Affidavit, to obtain *certiorari*, on stat. 19 Geo.

III. c. 70. § 4.
for having ex-
ecution in K. B.
or C. P. upon a
judgment of an
inferior court.

Prac. 401, 2.

make oath and say ; and first this deponent *E. F.* for himself saith, that on or about the — day of — last past, a certain suit was commenced by the said *A. B.* against *C. D.* in —, (*stating the style of the court,*) the same being a court of record, for the amount of goods, wares and merchandizes, before that time sold and delivered by the said *A. B.* to the said *C. D.* and at his request, (*or, as the action is ;*) and such proceedings were had in the said suit, that afterwards, on — last past, final judgment was given for the said *A. B.* against the said *C. D.* for —*l.* (*as in the judgment,*) which is still in force and unsatisfied : And this deponent further saith, that he thereupon sued out a certain attachment against the person of the said *C. D.* and also a certain warrant against his goods and chattels, founded on the said judgment, and for the purpose of having execution thereof, and delivered the same to the other deponent *G. H.* to execute. And this deponent *G. H.* for himself saith, that upon the said attachment and warrant being by the said other deponent delivered unto this deponent, as such serjeant at mace as aforesaid, to be executed, he this deponent made diligent search and inquiry after the person and effects of the said *C. D.* ; but that neither the person of the said *C. D.* nor any effects to him belonging, were to be found within the jurisdiction of the said court. And this deponent *E. F.* further saith, that he hath heard and verily believes, that the said *C. D.* is now residing (*or, “ that effects of the said C. D. are now to be found ”*) in the county of —.

The above-named deponents *E. F.* and } *E. F.*
G. H. were sworn at —, before } *G. H.*
—, (*a judge or commissioner, &c.*)

— on (*or, next after*) —, &c. (11.)

(§ 8.)
Rule of court
thereon.

Prac. 401, 2.

B. } Upon reading the affidavit of *E. F.* and *G. H.* it is ordered, that
v. } a writ of *certiorari* do issue, to remove a certain cause between *A. B.*
D. } and *C. D.* from the court of —, with a transcript of the record of
the judgment thereupon obtained in the said court, into this court, pursuant to the statute of the 19th of the late king *George* the Third, Chap. 70. and that the clerk of the treasury (*or, in C. P. “ the prothonotary ”*) of this court do receive and file the same. Upon the motion of *Mr. N. C. Wetherell.*

By the Court.

(§ 9.)
Certiorari, to
remove the re-
cord of a judg-
ment from an
inferior court,
on the above
statute.

Prac. 401, 2.

George the Fourth, &c. (14.) To the judges of our court of record of the honour of *Poecrel*, in the county of *Nottingham*, and additional limits of the same, greeting : We being willing, for certain causes, to be certified of the proceedings in a certain cause, lately depending in our said court, between *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the plea is,*) and of the judgment thereupon obtained in our said court, as it is said ; do command you, that you send to us, distinctly and openly, under your seal, the record of the proceedings and judgment aforesaid, with all things touching the same, which are in your custody, as it is said, by whatsoever names the parties may be called therein, and this writ, so that we may have them before us, on —, wheresoever we shall then be in *England*, (*or, in C. P. before our justices at Westminster, on —,*)

and further cause to be done thereupon, what of right, and according to the form of the statute in such case made and provided, shall be meet to be done. Witness, &c. (148.)

In the King's Bench, &c. (17.)

In relation to a cause instituted in his majesty's court of Common

Pleas for the county palatine of *Lancaster*, wherein *A. B.* is the plaintiff, and *C. D.* is the defendant.

G. H. of — gentleman, attorney for the defendant in the above cause, and *I. K.* of the same place, officer to the sheriff of the said county, severally make oath and say: And first, this deponent *G. H.* for himself saith, that judgment as in case of a nonsuit, for not proceeding to trial, in pursuance of a peremptory undertaking in the above-named cause, was moved for at the *March* assizes for *Lancashire*, in the year 18—, and a rule absolute of the said court of Common Pleas at *Lancaster* was thereupon obtained for such judgment, at the same assizes; and that this deponent afterwards caused the defendant's costs to be taxed, and final judgment to be signed for the said defendant; and also caused a writ of *capias ad satisfaciendum* to be sued out of the said court of Common Pleas at *Lancaster*, against the said plaintiff, returnable before his majesty's justices at *Lancaster*, on the first day of the general sessions of assizes, there to be holden, and which were holden at *Lancaster*, in the month of — now last past, for the costs upon such judgment; which writ was duly delivered to the sheriff of the said county of *Lancaster*, to be executed. And the said other deponent *I. K.* for himself saith, that in the month of — now last past, he received a warrant of the sheriff of the said county palatine of *Lancaster*, on the said writ of *capias ad satisfaciendum*, to him this deponent directed, commanding him to take the said plaintiff; and this deponent in consequence made diligent search and enquiry after the said plaintiff, but he was not to be found within the jurisdiction of the said court of Common Pleas at *Lancaster*: And this deponent verily believes, that the said plaintiff hath ever since resided out of the county of *Lancaster*, and out of the jurisdiction of the said court of Common Pleas at *Lancaster*; and that he hath no goods or effects in the said county palatine. And the said other deponent *G. H.* for himself saith, that he is informed and verily believes, that the said plaintiff resides at or near — in the county of —, out of the jurisdiction of the said court of Common Pleas at *Lancaster*; and the said judgment is still in force, and the costs due to the said defendant thereon unpaid and undischarged.

Sworn, &c. (*Post*, 175.)

G. H.

B. } Upon reading the affidavit of *G. H.* gentleman and another, it is
v. } ordered, that a writ of *certiorari* issue, to remove this cause, with
D. } a transcript of the record of the judgment obtained in the court of
Common Pleas at *Lancaster*, into this court, pursuant to the statute of the 33d of his late majesty king *George* the Third, Chap. 68. and that the same be received and filed by the clerk of the treasury of this court.
Upon the motion of Mr. *Winn*.

By the Court.

(§ 10.)
Affidavit for
certiorari, on
stat. 33 Geo.
III. c. 68. to
remove the
transcript of a
judgment, from
the Common
Pleas at *Lancaster*.
Prac. 401, 2.

(§ 11.)
Rule for *certiorari* thereon.
Prac. 401, 2.
485.

(§ 12.)
Certiorari, to
 remove the
 transcript of a
 judgment, &c.
 from the Com-
 mon Pleas at
Lancaster.

Prac. 401.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We being willing, for certain causes, to be certified of the proceedings in a certain cause, lately depending in our court before our justices at *Lancaster*, by our writ, between *A. B.* and *C. D.* of a plea of trespass upon the case, (or, as the plea is,) and of the judgment thereupon obtained in our said court, as it is said; do command you, that by our writ under the seal of our said county palatine to be duly made, and directed to our said justices at *Lancaster* aforesaid, you cause to be given in charge to the said justices, that they send to you, under their seals, into the Chancery of our said county palatine, the transcript of the proceedings in the said cause, and of the record of the said judgment therein, with all things touching the same, which are in their custody, as it is said, by whatsoever names the parties may be called therein, on — next ensuing, and our writ thereupon made and directed as aforesaid; and that you send to us, distinctly and openly, under the seal of our said county palatine, the transcript of the proceedings and judgment aforesaid, with all things touching the same, and this writ, so that we may have them before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* before our justices at *Westminster*, on —,) and further do thereupon, what of right, and according to the form of the statute in such case made and provided, shall be meet to be done. Witness *Charles Lord Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight,) at *Westminster*, &c. (148.)

(§ 13.)
 Rule for *certiorari*, on same
 statute, to re-
 move transcript
 of judgment
 from the Great
 Sessions in
Wales.

Prac. 401.

B. } Upon reading the affidavit, &c. (as in § 11.) it is ordered, that a
v. } writ of *certiorari* do issue, to remove the transcript of the record
D. } of the judgment obtained by the plaintiff, in the court of Great
 Sessions for the county of *Glamorgan*, against the defendant, into this
 court, in pursuance of the statute of the 33d year of the reign of his
 late majesty king *George the Third*, Chapter 68; and that the same be
 received and filed by the clerk of the treasury of this court: And that
 thereupon the plaintiff be at liberty to sue out execution thereon, as
 directed by the said statute. Upon the motion of *Mr. I. H. Roc*.

By the Court.

(§ 14.)
 Writ of *certiorari* thereon.
Prac. 401.

George the Fourth, &c. (14.) To our justices of the court of Great Sessions for the county of *Glamorgan*, greeting: We being willing, for certain causes, to be certified of the proceedings in a certain cause, lately depending in our said court, before our justices aforesaid, between *A. B.* and *C. D.* of a plea of trespass upon the case, (or, as the plea is;) and of the judgment thereupon obtained in our said court, as it is said; do command you, that you send to us, distinctly and openly, under your seal, a transcript of the proceedings in the said cause, and of the record of the said judgment therein, with all things touching the same, and this writ, so that we may have them before us, on, &c. (as above;) and further to do thereupon, what of right, and according to the form of the statute in such case made and provided, shall be meet to be done. Witness, &c. (148.)

Glamorganshire, (to wit.) I N. G. C. his majesty's chief-justice of the court of Great Sessions for the said county, by virtue of the writ of our lord the king to me directed and delivered, and hereto annexed, do send the transcript of the proceedings of the record of the judgment, whereof in the same writ mention is made, with all things touching the same, to our said lord the king before the king himself, in his court of King's Bench at *Westminster*, distinctly and openly, under my seal, as by the said writ is commanded. In witness whereof, I the said chief-justice have put my seal to these presents, at —, on the — day of — in the — year of the reign, &c. (*as in next paragraph.*)

(§ 15.)
Return thereto,
of proceedings
in the Great
Sessions, and
judgment as in
case of a non-
suit.
Prac. 407. (b.)

Glamorganshire, (to wit.) Pleas held at *Cardiff*, in and for the said county, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our lord 18—, before the Honourable *Nathaniel Gooding Clarke*, chief-justice, and the Honourable *Robert Mathew Casberd*, the other justice of our said lord the king, of his Great Session of the county aforesaid.

Glamorganshire, (to wit.) *C. D.* late of —, was attached to answer *A. B.* in a plea of trespass on the case, to the damage of the said *A. B.* of — *l.*; and the pledges to prosecute are *John Doe* and *Richard Roe*: and thereupon the said *A. B.* by *E. F.* his attorney complains, (*here copy the declaration, and plea*): And the said *A. B.* doth so likewise. Therefore it is commanded to the sheriff of the said county, that he cause to come at *Cardiff* in the said county, on the first day of the next Great Sessions, before the justices, &c. twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

At which day, before the said justices, at *Cardiff* in the said county, come the parties aforesaid, by their said attorneys; and the sheriff returned the writ of *venire facias* to him directed, in all things rightly served; of which jurors none came, &c. Therefore it is commanded to the sheriff of the said county, that he cause to come, at *Cardiff* in the said county, on the first day of the next Great Sessions, before the justices, &c. twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

At which day, before the said justices, at *Cardiff* in the said county, comes the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not: And it appearing to the court, that the said *A. B.* had neglected to bring the issue above joined on to be tried, according to the course and practice of the said court; therefore, according to the form of the statute in such case made and provided, it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.: And it is further considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court now here adjudged to the said *C. D.* and with his assent, according to

CHAP. XVI. the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 16.)
Habeas corpus,
to remove a
cause from an
inferior court.
Prac. 404.

George the Fourth, &c. (14.) To —, greeting: We command you, that you have the body, &c. (*as before*, p. 124. § 8, 9; the *habeas corpus* to remove the cause being the same as to remove the body: The reason is, that the removal of the cause is merely a consequence of the removal of the body into the court above.)

(§ 17.)
Return thereto,
that the defend-
ant was taken,
&c. on a plaint
levied in the
sheriff's court of
London.
Prac. 407. (d.)

We *I. K.* and *L. M.* Esquires, sheriffs of the city of *London*, certify to the right honourable *Charles* Lord *Tenterden*, (or, in *C. P.* to Sir *William Draper Best* knight,) his majesty's chief-justice named in the writ annexed to this schedule, that before the coming of the said writ to us, to wit, on the — day of — in the — year of the reign, &c. (155.) *C. D.* the defendant named in the said writ, was taken at *London* aforesaid, and detained in the prison of our said lord the king, under our custody, by virtue of a certain plaint levied in the court of our said lord the king, held on the day and year aforesaid, before me the said *I. K.* one of the said sheriffs of the said city, against the said *C. D.* by the name of —, at the suit of *A. B.* in a plea of *debt* upon demand for ——. whereupon the said parties have pleaded to an issue, to be tried by the country; and so it remains undetermined. And this is the cause of taking and detaining the said *C. D.* whose body we have ready.

The answer of —, sheriffs.

(§ 18.)
Directions of
certiorari, and
habeas corpus, to
the marshal, or
warden; the
Mayor's court,
or Sheriff's
court of *Lon-*
don; and *Li-*
*ber*ty of *St.*
Martin-le-
Grand.

Prac. 404.
County court.
Prac. 404.
Palace court.
Prac. 404.
Borough court
of *Southwark*.
Prac. 404.
Whitechapel
court.
Prac. 404.
Abingdon.

To the marshal of our prison of the *Marshalsea*, before us.

To the warden of our prison of the *Fleet*.

To the mayor, aldermen, and sheriffs of the city of *London*.

To the sheriffs of the city of *London*.

To the steward of the dean and chapter of the collegiate church of *St. Peter Westminster*, of the court of their liberty or precincts of *St. Martin-le-Grand* in *London*, and to the constables there.

To the sheriff of —.

To the judges of our palace court at *Westminster*, and to each of them.

To the steward of the court of the liberty of the mayor and commonalty and citizens of the city of *London*, of their town and borough of *Southwark*, in the county of *Surrey*, and also to the bailiff of the same liberty.

To the steward of our court of record, within the manors of *Stepney* and *Hackney*, in the county of *Middlesex*, the hamlets and liberties of the same, and also to the prothonotary of the same court.

To the mayor, bailiffs and burgesses of the borough of *Abingdon*, in the county of *Berks*, and to every of them.

Bath.

To the mayor, recorder and aldermen, justices of our city of *Bath*, in the county of *Somerset*, and to every of them.

Bedford.

To the mayor, aldermen, burgesses, and recorder of the town of *Bedford*, in the county of *Bedford*.

To the mayor, aldermen and burgesses of the town of *Beverley*, in the county of *York*. Beverley.

To the mayor and burgesses of the borough of *Boston*, in the county of *Lincoln*. Boston.

To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol*, of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city, of their court of *Piepowder*, and to every of them. Bristol.

To the bailiff and burgesses of the town of *Buckingham*, in the county of *Buckingham*. Buckingham.

To the mayor, recorder and burgesses of the borough of *Bury St. Edmund*, in the county of *Suffolk*. Bury St. Edmund.

To our justices of the *Great Sessions* of our county of *Caermarthen*. Caermarthen

To the mayor or recorder, and town clerk of the borough court of *Caermarthen*. Great Sessions,
Caermarthen
borough.

To the mayor and bailiffs of the town of *Cambridge*. Cambridge.

To the steward of the liberty of —, by divine providence archbishop of *Canterbury*, in the court of his palace, within the city of *Canterbury*. Canterbury.

To the mayor, aldermen, bailiffs and citizens of our city of *Carlisle*, in the county of *Cumberland*. Carlisle.

To the mayor, bailiffs and commonalty of our city of *Coventry*. Coventry.

To the mayor and burgesses of our borough of *Derby*, in the county of *Derby*. Derby.

To our justices of the bishop of *Ely*, assigned to hold pleas within the isle of *Ely*, and to the steward of the same bishop, within the liberties of the isle aforesaid, and to every of them. *Or, thus:—* Ely.

To our trusty and well beloved —, our chief-justice assigned to hold the sessions of pleas, within the liberty or royal franchise of the honourable and right reverend father in God —, by divine permission lord bishop of *Ely*, within the isle of *Ely*, in the county of *Cambridge*, and to — chief-bailiff of the said bishop, within the liberties of the said isle, and to each of them.

To the mayor and bailiffs of our city of *Exeter*, in the county of *Devon*, and to the bailiffs, citizens and provosts of the same city. Exeter.

To the mayor, aldermen and sheriffs of our city of *Gloucester*. Gloucester.

To the mayor, aldermen and citizens of our city of *Hereford*. Hereford.

To the mayor and capital burgesses of the borough of *Hertford*, in the county of *Hertford*, and also to the steward of our court of record there. Hertford.

To the mayor, aldermen and burgesses of the borough of *Huntingdon*, in the county of *Huntingdon*. Huntingdon.

To the mayor and recorder of our town or borough of *King's Lynn*, in the county of *Norfolk*. King's Lynn.

To the mayor and sheriffs of our town and county of the town of *Kingston upon Hull*, in the county of *York*. Kingston upon Hull.

Kingston upon Thames.	To the bailiffs and steward of our court of our town of <i>Kingston upon Thames</i> ; and, in the absence of the said steward, to the bailiffs and recorder of the same town, or any two of them.
Leominster.	To the bailiff and capital burgesses of <i>Leominster</i> .
Lincoln.	To the mayor, sheriffs and citizens of our city of <i>Lincoln</i> .
Litchfield.	To the bailiffs, burgesses and citizens of our city of <i>Litchfield</i> .
Liverpool.	To the mayor and bailiffs of our borough of <i>Liverpool</i> , in the county of <i>Lancaster</i> .
Ludlow.	To the recorder, bailiffs and capital burgesses of our borough of <i>Ludlow</i> , in the county of <i>Salop</i> .
Monmouth.	To the mayor and bailiffs of our town of <i>Monmouth</i> .
Newbury.	To the mayor, aldermen and burgesses of our borough of <i>Newbury</i> , in the county of <i>Berks</i> .
Northampton.	To the mayor and bailiffs of our town and borough of <i>Northampton</i> , in the county of <i>Northampton</i> .
Norwich.	To the mayor, aldermen and sheriffs of our county of the city of <i>Norwich</i> .
Nottingham.	To the mayor and burgesses of our town of <i>Nottingham</i> .
Oxford.	To the mayor and bailiffs of our city of <i>Oxford</i> , in the county of <i>Oxford</i> .
Portsmouth.	To the mayor, aldermen and burgesses of our borough of <i>Portsmouth</i> , in the county of <i>Southampton</i> .
Southampton.	To the mayor and bailiffs of our town of <i>Southampton</i> .
Taunton.	To the bailiffs of the reverend father in Christ ———, by divine permission, lord bishop of <i>Winchester</i> , of his liberty of <i>Taunton</i> and <i>Taunton Dean</i> , in the county of <i>Somerset</i> .
Thetford.	To the mayor and recorder of our borough of <i>Thetford</i> , in the county of <i>Norfolk</i> .
Wells.	To the steward or bailiff of our court of pleas, granted to the reverend father in Christ ———, lord bishop of <i>Bath</i> and <i>Wells</i> , held at the <i>Guildhall</i> within the city and borough of <i>Wells</i> , in the county of <i>Somerset</i> .
Woodstock.	To the mayor of the town of <i>New Woodstock</i> , in the county of <i>Oxford</i> .
Worcester.	To the mayor, recorder and aldermen of our city of <i>Worcester</i> .
York.	To the mayor, aldermen and sheriffs of our city of <i>York</i> .

(§ 19.)
Rule or order
for *procedendo*,
to compel de-
fendant to put
in bail.

Prac. 408.

(§ 20.)
Common bail-
piece, in K. B.

Prac. 408.

B. } Unless the defendant shall put in common (or special) bail, within
v. } four days (in term, or six days in vacation,) next after notice of this
D. } rule, given to him or his attorney, let a *procedendo* issue for the
plaintiff. Dated the ——— day of ———, 18—. ———.

In the King's Bench.

—— term, &c. (123.)

—— (to wit.) *C. D.* is delivered to bail, on a *habeas corpus*, to *John Doe*, of *London*, yeoman, and *Richard Roe*, of the same place, yeoman, at the suit of *A. B.* *I. K.* attorney.

In the Common Pleas.

— term, &c. (123.)

— (to wit.) *Habeas corpus* for *C. D.* at the suit of *A. B.* returnable on —.

The bail are, *John Doc*, of *London*, yeoman,
and

Richard Roe, of the same place, yeoman.

I. K. attorney.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

Take notice, that common bail was this day filed at the chambers of Mr. Justice —, in *Serjeants' Inn, Chancery-lane*, (or, in *C. P.* "at the Prothonotaries' office, in the *Inner Temple, London*.") Dated the — day of — 18—.

G. H. defendant's attorney, (or agent.)

To Mr. *E. F.* plaintiff's attorney.

— term, &c. (123.)

— (to wit.) *C. D.* is delivered to bail, on a *habeas corpus*, to

E. F. of —,

and

G. H. of —,

Oath for —*l.*

at the suit of the plaintiff in the plaint.

I. K. attorney.

In the Common Pleas.

— term, &c. (123.)

— (to wit.) *Habeas corpus* for *C. D.* at the suit of *A. B.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or, as the plea is.) Oath for —*l.*

The bail are, *E. F.* of —,

and

G. H. of —.

Each of them in —*l.*

I. K. defendant's attorney.

Ye (*naming the bail*,) do jointly and severally undertake, that if the defendant be condemned, at the suit of the plaintiff (or, plaintiffs) in the plaint, he shall satisfy the costs and condemnation, or render himself to the custody of the marshal of the Marshalsea of the court of King's Bench, or ye will do it for him.

Ye (*naming the bail*,) are bail for *C. D.* at the suit of *A. B.* and severally acknowledge to owe to the said *A. B.* the sum of —*l.* upon condition that the defendant do appear to an original writ, to be filed in the court of Common Pleas, within two terms; and if he be condemned in the action, he shall pay the condemnation money, or render himself to the custody of the warden of the *Fleet*; and if he fail so to do, ye (*the bail*,) severally undertake to do it for him.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (17.)

Take notice, that special bail was this day put in, upon the *habeas corpus* issued in this cause, before the honourable Mr. Justice —, at his chambers in *Serjeants' Inn, Chancery-lane, London*; and the names of

(§ 21.)

The like, in
C. P.

Prac. 408.

(§ 22.)

Notice of bail-
piece being filed.

Prac. 409.

(§ 23.)

Special bail-
piece, on *habeas*
corpus, in *K. B.*

Prac. 408, 9.

(§ 24.)

The like, in
C. P.

Prac. 408, 9.

(§ 25.)

Recognizance
of bail, on *habeas*
corpus, in
K. B.

Prac. 409.

(§ 26.)

The like, in
C. P.

Prac. 409.

(§ 27.)

Notice of bail
being put in, on
habeas corpus, in
K. B. or *C. P.*

Prac. 409.

CHAP. XVI. the bail are — of —, and — of —. Dated, &c. (as in p. 96. § 24.) with the like subscription, and direction.)

(§ 28.)
Rule or order
for better bail, to
compel a justi-
fication.

Prac. 409.

(§ 29.)
Notice of justi-
fication of bail.

Prac. 409.

(§ 30.)
Entry of re-
cognizance of
bail, taken be-
fore the chief-
justice, on a *ha-
beas corpus cum
causa*, in C. P.

Prac. 409.

B. } Unless the defendant put in better bail, within four days next af-
v. } ter notice of this rule, given to him or his attorney, let a *procedendo*
D. } issue for the plaintiff. Dated the — day of — 18—.

Take notice, that the bail already put in for the defendant in this cause, upon the writ of *habeas corpus*, and of whom you have had notice, will, on — next, justify themselves in open court, at *Westminster-hall* in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated, &c. (as in p. 96. § 24. with the like subscription, and direction.)

London, (to wit.) It was commanded to the sheriffs of *London*, that immediately after the receipt of the writ of the lord the king to them in that behalf directed, they should have the body of *C. D.* detained in the prison of the said lord the king, under their custody, as it was said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he might be called in the same, before Sir *William Draper Best* knight, chief-justice of the said lord the king of the Bench, at his chambers, situate in *Serjeants' Inn, Chancery-lane, London*, to do and receive all and singular those things which the said chief-justice should then and there consider of him in that behalf; and that they should have there that writ. Afterwards, to wit, on the — day of — in the year of our Lord 18—, the said *C. D.* came in his proper person, under the custody of the said sheriffs, by virtue of the said writ; and the said sheriffs, namely, *I. K.* and *L. M.* Esquires, sheriffs of *London* aforesaid, now here return, that the execution of the said writ appeareth in a certain schedule annexed to that writ; the tenor of which said schedule follows in these words, that is to say: We *I. K.* and *L. M.* Esquires, sheriffs of the city of *London* aforesaid, certify, &c. (as before, p. 156.) Afterwards, to wit, on the said — day of — in the year of our Lord 18— aforesaid, before the said Sir *William Draper Best*, chief-justice of the court here, at his chambers situate in *Serjeants' Inn, Chancery-lane, London* aforesaid, came *E. F.* of —, and *G. H.* of —, in their proper persons, and acknowledged themselves, and each of them did acknowledge himself, to owe to the said *A. B.* the sum of —*l.*; which said sum of —*l.* the said *E. F.* and *G. H.* for themselves and their heirs, and each of them for himself and his heirs, did consent and grant, should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* upon condition that the said *C. D.* should appear in the same court here, in his proper person, or by his attorney in that behalf, to an original writ, to be sued and prosecuted out of his majesty's high court of Chancery, returnable before his said majesty's justices of the Bench at *Westminster*, and filed in the said court here, by and at the suit of the said *A. B.* against the said *C. D.* in the plea aforesaid, before the end of the next term after the return of the said writ; and also upon this condition, that if judgment should happen to be given in the same court here, for the said *A. B.* against the said *C. D.* in the said plea, after the appearance of the said *C. D.* to the ori-

ginal writ aforesaid, then the said *C. D.* should satisfy all such damages (or, in debt, the debt aforesaid, and all such damages) as should be adjudged to the said *A. B.* against the said *C. D.* in the said court here, in the plea aforesaid, or should render his body on that occasion to his majesty's prison of the *Fleet*; which said recognizance the said chief-justice afterwards, to wit, on the — day of — in this same term, with his proper hand delivered here into court, to be enrolled of record, &c.

George the Fourth, &c. (14.) To —, greeting: Although we lately by our writ commanded you, that you should have the body of *C. D.* detained in our prison under your custody, as it was said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name the said *C. D.* might be called in the same, before our right trusty and well beloved *Charles Lord Tenterden*, our chief-justice assigned to hold pleas in our court before us, (or, in *C. P.* before the right honourable *Sir William Draper Best* knight, our chief-justice of the Bench, or, in the *Exchequer*, before the honourable *Sir William Alexander* knight, chief baron of our *Exchequer*,) at his chambers, (or house,) situate, (&c.) immediately after the receipt of that writ, to do and receive all and singular those things which our said chief-justice (or, chief baron) should then and there consider of him in that behalf; yet we, being now moved by certain causes, in our court before us, (or, in the *Exchequer*, “before the barons of our said *Exchequer*,” or, in *C. P.* thus: “yet for certain causes in this behalf specially moving our justices of the Bench aforesaid, we”) command you, and every of you, that in all complaints and suits against the said *C. D.* at the suit of *A. B.* in our court before you, or any of you, levied or affirmed, or before you or any of you now depending undetermined, you proceed with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper; our said writ to you thereupon before directed, to the contrary thereof in any wise notwithstanding. Witness, &c. (147.)

(§ 31.)
*Procedendo, on
habeas corpus.*
Prac. 410, 11.

George the Fourth, &c. (14.) To —, greeting: Although we, being willing, for certain causes, to be certified of a plaint levied in our court before you, against *C. D.* at the suit of *A. B.* of a plea of trespass on the case, (or, as the plea is,) lately by our writ commanded you, that you should send to us at *Westminster*, (or, in *C. P.* “to our justices at *Westminster*,” or, in the *Exchequer*, “to the barons of our *Exchequer* at *Westminster*,”) on a certain day now past, the plaint aforesaid, with all things touching the same, as fully and entirely as it remained in our court before you, by whatsoever names the parties might be called therein, together with that writ, that we might further cause to be done thereupon, what of right we should see fit to be done; yet we, being now moved by certain causes, in our court before us, &c. (as in last,) command you, and every of you, that in the plaint aforesaid you proceed, &c. (as in last.)

(§ 32.)
The like, on *certiorari*.
Prac. 410, 11.

George the Fourth, &c. (14.) To the mayor, aldermen and sheriffs of *London*, greeting: Whereas we being willing, for certain causes, to be certified as well of a certain bill original in our court before you, or some

(§ 33.)
The like, on *certiorari*, to the mayor's court of *London*.
Prac. 410, 11.

CHAP. XVI. of you, levied or affirmed against *C. D.* late of —, at the suit of *A. B.* of a plea of *debt* on demand for —*l.* as of a certain attachment thereupon made of —*l.* in the hands and custody of *E. F.* being attached and defended, lately by our writ commanded you, and every of you, that you should send the bill original and attachment aforesaid, with all things touching the same, as fully and entirely as they remained in our court before you, or any of you, by whatsoever names the parties might be called therein, before us at *Westminster*, on — next after —, (*or, in C. P.* before our justices of the Bench at *Westminster*, on —, *or, in the Exchequer*, before the barons of our said Exchequer, on — next coming,) together with that writ, that we might further cause to be done thereupon, what of right we should see fit to be done: Nevertheless, for certain causes now specially moving us, in our court before us, (*or, in C. P.* specially moving our justices of the Bench aforesaid, *or, in the Exchequer*, the barons of our said Exchequer,) we command you, and every of you, that as well in the bill original aforesaid, in our said court before you, or some of you, levied or affirmed against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, as in the attachment aforesaid thereupon made, of the said —*l.* in the hands and custody of the said *E. F.* with what speed you can, you proceed in such manner, according to the law and custom of *England*, as you shall see proper; our writ of *certiorari* aforesaid, to you thereupon before directed, to the contrary thereof in any wise notwithstanding. Witness, &c. (147.)

CHAP. XVII.

DECLARATION, and NOTICE thereof; and JUDGMENT of NON PROS, for not DECLARING, &c.

— on (or next after) —, &c. (175.)

B. } It is ordered, that the plaintiff have time (or, further time) to de-
v. } clare, until the *first* day inclusive of the next term, (or, *last* day in-
D. } clusive of the present term,) if the defendant is not in custody.

Side Bar.

By the Court.

In the Common Pleas.

— term, &c. (23.)

B. } It is ordered, that the plaintiff have time (or, further time) to de-
v. } clare against the defendant, until the *first* day of the next term, (or,
D. } until the *last* day of the present term,) inclusive, if the defendant is
not in custody.

In the Treasury-chamber, at the plaintiff's instance.

By the Court.

In the Common Pleas.

Rule to declare.

B. against *D.*

In the Common Pleas.

The defendant demands a declaration in this cause, by
Yours, &c.

B. against *D.*

To Mr. *E. F.* plaintiff's attorney,
(or agent.)

G. H. defendant's attorney,
(or agent.)

— on (or next after) —, &c. (175.)

B. } Upon reading the rule made in this cause, on — next after —
v. } in this term, or, "in — term last," (*the last rule for time to de-*
D. } *clare*;) It is ordered, that the plaintiff, upon notice of this rule to
be given to his attorney, shall *peremptorily* declare in this cause, on or
before the *last* day of this term; otherwise that a *nonpros* be entered.
Upon the motion of Mr. *Seth Thompson*.

By the Court.

In the Common Pleas.

— term, &c. (23.)

B. } Upon reading a rule made in this cause, on — last, (*the last rule*
v. } *for time to declare*;) It is ordered, that the plaintiff, upon notice of
D. } this rule to be given to him or his attorney, shall shew cause to this
court on — next, why he should not declare *peremptorily* against the
defendant in this action, on or before the *last* day of this term; or why,
in default thereof, the defendant should not be at liberty to sign a *nonpros*.

On the motion of Serjeant *E. Lawes*, for the defendant. By the Court.

(§ 1.)

Rule for time,
or further time,
to declare, in
K. B.

Prac. 423, 4.

(§ 2.)

The like, in
C. P.

Prac. 423, 4.

(§ 3.)

Rule to declare,
in C. P.

Prac. 424, 458.

(§ 4.)

Demand of de-
claration, in
C. P.

Prac. 458.

(§ 5.)

Rule to declare
peremptorily,
in K. B.

Prac. 424.

(§ 6.)

The like, *nisi*,
in C. P.

Prac. 424.

487, 8.

(§ 7.)

Beginning of
declaration by
original, in case
in K. B. or
C. P.

Prac. 433.

In the King's Bench, (or Common Pleas.)

— term, in the — year of the reign of king *George* the
Fourth.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

(§ 8.)

The like, by an
infant.

Prac. 433.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. And thereupon the said *A. B.* by *E. F.* who is admitted by the court of our lord the king before the king himself here, to prosecute for the said *A. B.* who is an infant within the age of twenty one years, as the next friend of the said *A. B.* complains; that whereas, &c.

(§ 9.)

The like, in account.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* a reasonable account, for the time he was bailiff to the said *A. B.* in — in the county of —, (or, "receiver of the monies of the said *A. B.*") &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

(§ 10.)

The like, in annuity.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which is in arrear to the said *A. B.* of a certain annuity or yearly rent of —*l.* and which the said *C. D.* owes to the said *A. B.* &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

(§ 11.)

The like, in covenant.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he keep with him the covenant made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture, (or, "of a certain deed poll, or articles of agreement,") in that behalf made between them, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

(§ 12.)

The like, in debt.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from him, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

(§ 13.)

The like, in debt *qui tam*.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* who sues as well for our sovereign lord the king (or, for the poor of the parish of — in the county of —), as for himself in this behalf, of a plea that he render to our said lord the king, (or, to the poor of the said parish,) and to the said *A. B.* who sues as aforesaid, the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from them, &c. And thereupon the said *A. B.* who sues as aforesaid, by *E. F.* his attorney complains; that whereas, &c.

(§ 14.)

The like, in detinue.

Prac. 433.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* certain goods and chattels, (or, deeds and writings,) to the value of —*l.* of lawful money of *Great Britain*, which he unjustly detains from him, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, &c.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea wherefore the said *C. D.* with force and arms, &c. broke and entered, (or made an assault,) &c. (*stating the trespasses at length, but without particularizing the time, number, quantity, or value, &c.*) and other wrongs to the said *A. B.* there did, to the great damage of the said *A. B.* and against the peace of our lord the now king, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that the said *C. D.* on —, at —, (*repeating the trespasses, with the circumstances of time, number, quantity, and value, &c.*) and other wrongs to the said *A. B.* then and there did, to the great damage of the said *A. B.* and against the peace of our said lord the now king: wherefore the said *A. B.* saith that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

Ellenborough.

— term, &c. (*opposite.*)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself; for that whereas, (*or, in trespass, “for that,”*) &c.

— (to wit.) *A. B.* by *E. F.* who is admitted by the court of our lord the king before the king himself here, to prosecute for the said *A. B.* who is an infant within the age of twenty one years, as the next friend of the said *A. B.* complains of *C. D.* being, &c. (*as in last.*)

The plea is described as “a plea of breach of covenant.”

In *account, annuity, debt, and detainee*, the plea, in declarations by bill in *K. B.* is described in the same manner as in declarations by *original* in *K. B.* or *C. P.* for which *vide ante*, p. 164.: And if the plaintiffs are *assignees* of a bankrupt or insolvent debtor, or the action be brought by or against *executors* or *administrators*, they should be described accordingly. In the Exchequer of Pleas.

— term, &c. (*opposite.*)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of his majesty's Exchequer, on the — day of — in this same term, by *Kenrick Collett* his attorney; and complains by bill against *C. D.* present here in court the same day, of a plea of trespass on the case, &c. (*or, as the plea is, describing it as in a declaration by bill, in K. B.*): For that whereas, &c.

— (to wit.) *A. B.* executor of the last will and testament of *E. F.* deceased, (*or, administrator of all and singular the goods, chattels and credits, which were of E. F. deceased, at the time of his death, who died intestate,*) and a debtor to our sovereign lord the now king, for the debts of the said *E. F.* cometh before the barons, &c. (*as in last.*)

To the damage of the said *A. B.* of —*l.* whereby he is the less able to satisfy our said lord the king, the debts (*or, if at the suit of an executor or administrator, “the debts of the said E. F.”*) which he owes to his majesty, at his said Exchequer, and therefore he brings his suit, &c.

Pledges, &c. (p. 57.)

(§ 15.)
The like, in
trespass.
Prac. 433.

(§ 16.)
The like, by bill,
in case of tres-
pass, in *K. B.*
Prac. 432.

(§ 17.)
The like, by an
infant.
Prac. 432.

(§ 18.)
In covenant, &c.
Prac. 432.

(§ 19.)
The like, in the
Exchequer, by
quo minus.
Prac. 432.

(§ 20.)
The like, at suit
of an executor,
or administrator.
Prac. 432.

(§ 21.)
Conclusion to
declaration, in
the Exchequer.
Prac. 432.

(§ 22.)
Notice of declaration, &c. on common process, in K. B. or C. P. where bail is filed, or an appearance entered, according to the statute 5 Geo. II. c. 27. § 1.
Prac. 452.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, (or in C. P. "with the prothonotaries, at their office in *Tanfield court*,") in the *Inner Temple, London*, as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass on the case upon promises, to the plaintiff's damage of — *l.* (or, "in an action of debt for — *l.*" or, *as the action is*;) and unless you plead thereto in *four* (or *eight*) days from the date hereof, (or, within the first *four* days of next — term,) judgment will be signed against you by default. Dated the — day of — 18—.

Yours, &c.

E. F. plaintiff's attorney,
(or agent.)

To Mr. *C. D.* the above defendant.

(§ 23.)
The like, *de bene esse*, on common or bailable process, in K. B. or C. P.

Prac. 452.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, (or in C. P. "with the prothonotaries, at their office in *Tanfield court*,") in the *Inner Temple, London*, conditionally, until common bail be filed, (or by original in K. B. or C. P. "until a common appearance be entered," or, *in a bailable action*, "until special bail be put in and perfected,") as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass on the case upon promises, to the plaintiff's damage of — *l.* (or, "in an action of debt for — *l.*" or *as the action is*;) and unless you appear and plead thereto, in *eight* days from the date hereof, (or, *on bailable process*, "in *four* or *eight* days," *as the case may require*;) judgment will be signed against you by default. Dated, &c. (*as above, with the like subscription, and direction.*)

(§ 24.)
The like, on common process, in the Exchequer.

Prac. 454, 5.

In the Exchequer of Pleas. *A. B.* plaintiff, &c. (185.)

Take notice, that a declaration is filed against you, as of this present — term, (or *on an imparlance*, as of last — term,) in the office of pleas of this honourable court, situate in *Lincoln's Inn*, in the county of *Middlesex*, at the suit of the above-named plaintiff, in an action of trespass on the case, (or debt, &c. *according to the nature of the action*;) to the plaintiff's damage of — *l.*; and unless you plead thereto, within *eight* days after service hereof, (or, *on an imparlance*, within the first *four* days of next — term,) judgment will be entered against you by default. Dated, &c. (*as in last but one, with the like subscription, and direction.*)

(§ 25.)
Judgment of *non pros*, for want of a declaration, on common process by bill, in K. B.
Prac. 458, 930.

As yet of — term, (*the term of which judgment is signed*;) in the — year of the reign of king George the Fourth. Witness *Charles Lord Tenterden*.

Ellenborough.

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of trespass.

— to wit. *C. D.* according to the form of the statute in such case made and provided, was served with a copy of a certain precept called a

bill of *Middlesex*, (or, of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, (*if a latitat*, or *alias capias*, &c.) and returnable before our said lord the king at *Westminster*, on — next after —, in — term now last past, to answer *A. B.* in a plea of trespass; and the said *C. D.* at the same day appeared by *G. H.* his attorney, according to the form of the statute in such case made and provided: And the said *A. B.* hath not declared, in the said court of our said lord the king before the king himself at *Westminster* aforesaid, by his bill or declaration in any personal action or *ejectment*, against the said *C. D.* before the end of this present — term, (or, of — term then next ensuing,) being the next term after the appearance of him the said *C. D.* at the suit of the said *A. B.* Therefore it is considered, that the said *A. B.* take nothing by his said precept (or writ), but that he be in mercy, &c. And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* —*l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

Judgment
signed the —
day of — 18—.

Execution.

As yet of — term, &c. (*as in last.*)

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of trespass on the case upon promises, (or, as the plea is.)

(§ 26.)
The like, by
original, in K. B.
Prac. 458. 930.

— to wit. *C. D.* late of —, according to the form of the statute in such case made and provided, was served with a copy of a certain writ of our lord the king, called a special *capias ad respondendum*, issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, and returnable before our said lord the king, on —, wheresoever our said lord the king should then be in *England*, to answer *A. B.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or, as the plea is;) and the said *C. D.* at the same day appeared, &c. (*as in last.*)

As yet of — term, &c. (*as in last but one.*)

(*Entry of narrant of attorney for defendant, as in last.*)

— to wit. *C. D.* was arrested, by virtue of a precept called a bill of *Middlesex*, (or, of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, (*if a latitat*, or *alias capias*, &c.) and returnable before our said lord the king at *Westminster*, on — next after —, in — term now last past, to answer *A. B.* in a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for —*l.* on promises, (or, as the action is,) according to the custom of the court of our said lord the king before the king himself; and the said *C. D.* at the same day appeared, and put in

(§ 27.)
The like, on
bailable process
by bill, in K. B.
Prac. 458. 930.

CHAP.
XVII.

special bail, by *G. H.* his attorney, at the suit of the said *A. B.* And the said *A. B.* hath not declared, &c. (*as before*, § 25.)

(§ 28.)

The like, where proceedings were stayed by a judge's order for delivery of particulars; and, after waiving them, a peremptory rule was given to declare, in *K. B.*

Prac. 458. 930.

As yet of — term, &c. (*as in* § 25.)

(*Entry of warrant of attorney for defendant, as in* § 26.)

— to wit. *C. D.* was arrested, by virtue of a precept called a bill of *Middlesex*, issuing out of the court of our lord the king before the king himself, and returnable before our said lord the king at *Westminster*, on — next after —, in — term, in the — year of the reign of our said lord the king, to answer *A. B.* in a plea of trespass, and also to a bill, &c. (*as in last*;) and the said *C. D.* at the same day appeared, by *G. H.* his attorney, at the suit of the said *A. B.* And thereupon afterwards, and before the said *A. B.* had declared upon the said precept, in the said court of our said lord the king before the king himself at *Westminster* aforesaid, by his bill or declaration in any personal action or *ejectment*, against the said *C. D.* to wit, on the — day of —, in — term, in the — year aforesaid, it was ordered by the right honourable *Charles Lord Tenterden*, his majesty's chief justice assigned to hold pleas in the said court of our said lord the king before the king himself at *Westminster* aforesaid, that the attorney for the said *A. B.* should deliver to the attorney for the said *C. D.* the particulars in writing of the demand for which the said action was brought; and that all proceedings should be in the mean-time stayed: And hereupon a day is given to the said *A. B.* before our said lord the king at *Westminster* aforesaid, until — next after —, (that is to say,) for the said attorney of the said *A. B.* to deliver the particulars aforesaid, to the said attorney for the said *C. D.* and then to declare upon the precept aforesaid; the same day is given to the said *C. D.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid; and the said attorney for the said *A. B.* hath not delivered the particulars aforesaid, to the said attorney for the said *C. D.* nor hath the said *A. B.* declared upon the said precept, in the said court of our said lord the king before the king himself at *Westminster* aforesaid, by his bill or declaration in any personal action or *ejectment*, against the said *C. D.* And hereupon a further day is given to the said *A. B.* before our said lord the king at *Westminster* aforesaid, until — next after —, (that is to say,) for the said attorney of the said *A. B.* to deliver the particulars aforesaid, to the said attorney of the said *C. D.* and then to declare upon the precept aforesaid; the same day is given to the said *C. D.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid; and the said *C. D.* having waived the order made in the said cause, on the said — day of — in the — year aforesaid, for the delivery to the said *A. B.*'s attorney of the particulars aforesaid, prays that the said *A. B.* may declare on the said precept, in the said court of our said lord the king before the king himself at *Westminster* aforesaid: And hereupon it is order-

ed, by the said court of our said lord the king before the king himself now here, at the prayer of the said *A. B.* that he the said *A. B.* have further time to declare upon the said precept, until the last day inclusive of this term, (that is to say,) until — next after —, in the — year of the reign of our said lord the king; the same day is given to the said *C. D.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *A. B.* hath not declared upon the said precept, in the said court of our said lord the king before the king himself at *Westminster* aforesaid, by his bill or declaration in any personal action or *ejectment*, against the said *C. D.* Therefore it is further ordered, by a rule or order of the said court of our said lord the king, before the king himself now here, that the said *A. B.* upon notice of that rule to be given to his attorney, shall *peremptorily* declare in the said cause, on or before the said last day of this term, (that is to say,) on or before the said — next after —, otherwise that a *non pros* be entered: And although notice of the said last-mentioned rule hath been given to the said attorney of the said *A. B.* yet the said *A. B.* hath not declared in the said cause, in the said court of our said lord the king before the king himself at *Westminster* aforesaid by his bill or declaration in any personal action or *ejectment*, against the said *C. D.* on or before the said last day of this term, being the day on which he was so ordered peremptorily to declare as aforesaid: Therefore it is considered, that the said *A. B.* take nothing by his said precept, but that he be in mercy, &c. And it is further considered by his majesty's court here, &c. (*as before*, § 25.)

(*Entry of warrant of attorney for defendant, as in § 26.*)

— to wit. *C. D.* was arrested, by the name of *E. F.* by virtue of a certain precept, &c. (*as in the last but one, to the end of the recital of the precept, or writ, and then as follows*): And the said *C. D.* afterwards, to wit, on the — day of — in that same — term, was discharged out of the custody of the sheriff of —, by virtue of a rule or order of the same court, upon filing common bail by the said *G. H.* his said attorney, at the suit of the said *A. B.* And the said *A. B.* hath not declared, &c. (*as before*, § 25.)

— to wit. *C. D.* was arrested, by virtue of a certain writ or mandate, directed to the sheriff of the county palatine of *Lancaster*, and grounded upon a certain writ of our said lord the king called a *latitat*, (or, *alias capias*, &c.) issuing out of the court of our said lord the king, before the king himself, directed to the chancellor of the said county palatine, and returnable, &c. (*as before*, § 25.)

— to wit. *A. B.* who brought a writ of *exigi facias* of our lord the king before the king himself, against *C. D.* late of —, of a plea, &c. (*as the plea is*,) did not prosecute his writ aforesaid: Therefore he and his pledges to prosecute are thereupon in mercy, &c. and let the names of the pledges be inquired, &c. and the said *C. D.* go thereof without day, &c. It is also considered, &c. (*as before*, § 25.)

(§ 29.)

The like, where defendant had been discharged out of custody, on filing common bail, in *K. B.*

Prac. 458. 930.

(§ 30.)

The like, in a county palatine, in *K. B.*

Prac. 458. 930.

(§ 31.)

The like, after the defendant's appearance on an *exigi facias*, in *K. B.*

Prac. 458. 930.

(§ 32.)
The like, in
debt *quidam*, in
K. B.

Prac. 458. 930.

Judgment
signed, &c.
(167.)

(§ 33.)
Docket paper,
in K. B.

Prac. 458.

(§ 34.)
Judgment of
non pros, for not
declaring on a
bailable *capias*,
in C. P.

Prac. 458. 930.

Judgment
signed, &c.
(167.)

(§ 35.)
The like, on a
bailable *quo mi-*
nus, in the Ex-
chequer.

Prac. 458. 930.

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* who as well, &c. in a plea of debt on statute.

— to wit. *A. B.* who brought a writ of our lord the king, as well for our said lord the king as for himself, against *C. D.* of a plea of debt on statute, hath not prosecuted his writ aforesaid: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.: And it is further considered, &c. (*as before*, § 25.)

The entry (*or*, further entry) of *G. H.* gentleman, one, &c. of the term of —, — *Geo.* IV. 18—.

— (*Venue.*) *Non pros* for not declaring, between
A. B. plaintiff, and *C. D.* defendant, for — } Roll
costs. —.

— to wit. *A. B.* who sued out the writ of our lord the king against *C. D.* late of —, in a plea of trespass, and also in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (*or*, *as the plea is*,) doth not further prosecute his said writ: Therefore it is considered by the justices here, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c. It is also considered, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the discretion of the justices here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided, &c.

Pleas, &c. (*as before*, p. 71.)

— to wit. *C. D.* was arrested, by virtue of a certain writ of our lord the king called a *quo minus*, issuing out of the court of our said lord the king, before the barons of his Exchequer at *Westminster*, directed to the sheriff of —, and returnable in the same court, on —, in — term now last past, to answer *A. B.* his majesty's debtor, of a plea of trespass, whereby he was the less able, &c.: And the said *C. D.* at the same day put in his place *G. H.* his attorney, and found good and sufficient bail, to answer the said *A. B.* in the plea aforesaid: And the said *A. B.* hath not declared in the said court of our said lord the king, before the barons of his Exchequer aforesaid, by his bill or declaration, &c. (*as before*, p. 167.)

CHAP. XVIII.

IMPARLANCE; NOTICE, *and* RULE to PLEAD; DEMAND of PLEA; *and* SUMMONS for TIME, &c.

— on, (or next after) —, &c. (175.)

A. B. } It is ordered, that the defendant have leave to
v. } imparl to the declaration of the plaintiff, until —,
C. D. } saving to himself all and all manner of exceptions
sued by the name of } to the said bill, (or, *by original*, as well to the writ,
E. D. } as to the said declaration,) of the said plaintiff, (or, *in the case of a general special imparlance*, “all advantages and objections whatsoever.”)

By the Court.

In the Common Pleas.

A. B. } Special imparlance for defendant.
v. }
C. D. } G. H. defendant's attorney.
sued by the name of } — 18—
E. D. }

(§ 1.)

Rule for special, or general special imparlance, in K. B.

Prac. 462.

(§ 2.)

Note for imparlance, in C. P.

Prac. 463.

(§ 3.)

Notice to plead.

Prac. 473.

(§ 4.)

The like, on declaration by the byc.

Prac. 425. 473.

(§ 5.)

The like, on declaration filed or delivered *de bene esse*.

Prac. 473.

(§ 6.)

The like, on common process in C. P.

Prac. 473.

(§ 7.)

Term's notice, of rule to plead.

Prac. 468.

(§ 8.)

Præcipe for rule to plead, in K. B.

Prac. 474.

(§ 8. a.)

Form of rule thereon.

Prac. 474.

The defendant is to plead hereto in *four* (or *eight*) days, (or, within the first *four* days of next — term,) otherwise judgment.

This declaration is delivered *by the bye*; and the defendant is to plead hereto in *four* (or *eight*) days, (or, within the first *four* days of next — term,) otherwise judgment.

This declaration is filed (or, delivered) conditionally, until special bail be put in and perfected, (or, “perfected,” *if already put in*;) and the defendant is to plead hereto in *four* (or *eight*) days, otherwise judgment.

This declaration is filed (or, delivered) conditionally, until an appearance be entered; and the defendant is to plead hereto in *four* (or *eight*) days, otherwise judgment.

In the King's Bench, &c. (185.)

B. against D.

Take notice that the plaintiff intends to proceed, after the end of the ensuing term, by giving a rule to plead in this cause. Dated, &c. (*as in p. 96. § 24. with the like subscription, and direction.*)

In the King's Bench, &c. (185.)

B. against D.

Rule to plead.

E. F. plaintiff's attorney, (&c.)

— 18—.

B. } Unless the defendant shall plead within *four* days, let judgment
v. } be entered for the plaintiff.
D. }

By the Court.

- (§ 9.)
Practice for rule
 to plead to new
 assignment, in
 K. B.
Prac. 693.
- In the King's Bench.
 B. } Rule to plead to new assignment.
 v. } *E. F.* plaintiff's attorney, (or agent.)
 D. } ——— 18—.
- (§ 9. a.)
 Form of rule
 thereon.
Prac. 693.
- B. } Unless the defendant shall plead to the new assignment, within
 v. } *four* days, let judgment be entered for the plaintiff.
 D. } By the Court.
 B. against *D.*
- (§ 10.)
 Demand of plea.
Prac. 475.
- In the King's Bench, &c. (185.)
 The plaintiff demands a plea in this cause, by
 Your's &c.
E. F. plaintiff's attorney, (&c.)
 To Mr. *G. H.* defendant's attorney, (&c.) ——— 18—.
- (§ 11.)
 The like, to
 new assignment,
 in K. B.
Prac. 693.
- In the King's Bench.
 B. } The plaintiff demands a plea to the new assignment in this cause,
 v. } by Your's, &c.
 D. } (*Direction as above.*) *E. F.* &c. (*as above.*)
- (§ 12.)
 Summons for
 time, or further
 time, to plead.
Prac. 469.
- B. } Let the plaintiff's attorney or agent attend me at my chambers,
 v. } in *Serjeants' Inn*, to-morrow, at ——— of the clock in the forenoon,
 D. } (*or*, at ——— of the clock in the afternoon, *or* evening,) to shew cause,
 why the defendant should not have a month's time (*or*, further time) to
 plead. ———, (*judge's name.*)
- (§ 13.)
 Order for fur-
 ther time to
 plead.
Prac. 469.
- B. } Upon hearing the attornies or agents on both sides, I order, that
 v. } the defendant have ——— further time to plead; pleading issuably,
 D. } rejoining *gratis*, and taking short notice of trial, for the sittings af-
 ter this term, if necessary. Dated the ——— day of ——— 18—.
- (§ 14.)
 Affidavit of
 service, and at-
 tendance on
 summons, in
 K. B. or C. P.
Prac. 369. 470.
- In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)
I. K. of ———, clerk to Mr. *G. H.* attorney for the defendant in this
 cause, maketh oath and saith, that he this deponent did, on the ——— day
 of ——— instant, (*or* last,) personally serve Mr. *E. F.* who acts as attor-
 ney (*or* agent) for the plaintiff in this cause, with a true copy of the
 summons hereunto annexed; (*or, if served on a clerk or servant, "did, on,*
 &c. (*as above,*) serve a true copy of the summons hereunto annexed, on
 Mr. *E. F.* who acts as attorney (*or* agent) for the plaintiff in this cause,
 by leaving the same at the house of the said *E. F.* in ———, with his clerk,
or servant there;") and at the same time shewed him the said original
 summons. And this deponent further saith, that he hath this day duly
 attended (*or, "that he did, on the ——— day of ——— instant, duly at-*
 tend") the said summons, at the chambers of the Chief-Justice, (*or* of
 the honourable Mr. Justice ———,) in *Serjeants' Inn, Chancery Lane,*
London; but that the plaintiff's attorney or agent did not, nor did any
 other person on his behalf, attend the said summons, to the knowledge or
 belief of this deponent.
- Sworn, &c. (*Post*, 175.) *I. K.*
- (§ 15.)
 The like, on
 three sum-
 monses.
Prac. 369. 470.
- I. K.* of ———, clerk to Mr. *G. H.* attorney for the defendant in this
 cause, maketh oath and saith, that he this deponent did, on the ——— day
 of ——— instant, (*or* last,) personally serve Mr. *E. F.* who acts as attor-
 ney, &c. (*as in last,*) with a true copy of the first summons, &c. (*as in*

last.) And this deponent further saith, that he did, on the — day of — instant, (*or last,*) personally serve the said *E. F.* with a true copy of the second summons, &c. (*as before.*) And this deponent further saith, that he did, on the — day of — instant, (*or last,*) personally serve the said *Mr. E. F.* with a true copy of the third summons, &c. (*as before.*) And this deponent further saith, that he did duly attend the said several summonses, at the times therein respectively mentioned, at the chambers, &c. (*as in last*); but that the plaintiff's attorney or agent did not, nor did any other person on his behalf, attend the said summonses, or any or either of them, at any or either of the times aforesaid, to the knowledge or belief of this deponent.

Sworn, &c. (*Post*, 175.)

I. K.

CHAP. XIX.

NOTICES of MOTION ; AFFIDAVITS ; and RULES of COURT, &c. in general.

(§ 1.)
Notice of motion, for rule to shew cause, why writ should not be quashed, and to answer matters of affidavit.

Prac. 491.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

TAKE notice, that this honourable court will be moved to-morrow, (or on — next,) or so soon after as counsel can be heard, for a rule to shew cause, why the writ of *latitat* (*capias*, or *quo minus*, &c.) should not be quashed, and why the plaintiff should not pay the costs of this application ; and that the plaintiff may answer the matters of the affidavit. Dated, &c. (*as in p. 97. § 25. with the like subscription, and direction.*)

(§ 2.)
The like, to set aside bail bond, and proceedings thereon.

Prac. 491.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

Take notice, that this honourable court will be moved, &c. (*as in last*), for a rule to shew cause, why the bail-bond assigned in this cause, and the proceedings thereon, should not be set aside, with costs, to be taxed by the master, (*in the King's Bench, or Exchequer ; or, in the Common Pleas*, “ by one of the prothonotaries,”) and in the mean time all proceedings be stayed. Dated, &c. (*as directed above.*)

(§ 3.)
The like, for leave to file common bail.

Prac. 491.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

Take notice, that this honourable court will be moved, &c. (*as above*), for a rule to shew cause, why the defendant should not be permitted to file common bail (*or, in the Common Pleas*, to enter a common appearance) in this action, and in the mean time all proceedings be stayed. Dated, &c. (*as directed above.*)

(§ 4.)
Affidavit, of service of notice of motion.

Prac. 494.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

G. H. of — gentleman, attorney for the defendant in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, (*or last*), personally serve Mr. *E. F.* who acts as attorney or agent for the plaintiff in this cause, with a true copy of the notice hereunto annexed, purporting that this honourable court would be moved, &c. (*as in the notice ;*) or, (*if served on a clerk or servant*), did, on, (&c.) serve a true copy, &c. (*as above*), on Mr. *E. F.* who acts as attorney or agent for the plaintiff in this cause, by leaving the same at the house, (*or chambers*), of the said *E. F.* in —, with his clerk (*or servant*) there.

Sworn, &c. (*opposite.*)

G. H.

(§ 5.)
Beginning of affidavit, in support of motion, in K. B. or C. P.

Prac. 491.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

G. H. of —, maketh oath and saith, that, &c. (*stating the facts necessary to support the application to the court.*)

Sworn in Court, (*or, if the court be not mentioned at the top of the affidavit, "in the Court of King's Bench, Common Pleas, or Exchequer,"*) at *Westminster-Hall*, the — day of — 18—.

By the Court.

When the affidavit is sworn before a judge or baron, the *jurat* is as follows :

Sworn at my Chambers, in *Serjeants' Inn, Chancery Lane*, (*or, "at my house, in —," or wherever else the affidavit may be sworn,*) the — day of — 18—, before me

—, (*the judge or baron's name.*)

When sworn before a commissioner, authorized to take affidavits by the statute 29 Car. II. c. 5. it is thus :

Sworn at —, in the county of —, the — day of — 18—, before me —, a Commissioner. (*Or, if the court be not mentioned at the top of the affidavit, "a Commissioner for taking affidavits in the court of —."*)

When an affidavit is made before a commissioner, by a person who from his signature appears to be *illiterate*, the *jurat* is as follows :

Sworn at —, in the county of —, the — day of — 18—, before me —, a Commissioner. And I do hereby certify, that the above affidavit was first read over by me, (*or, in my presence,*) to the above-named *A. B.* ; and that he seemed perfectly to understand the same, and wrote his signature, (*or, "made his mark"*) thereto, in my presence.

In the King's Bench, &c. (185.) *A. B.* plaintiff, &c. (*id.*)

E. F. of —, and *G. H.* of —, severally make oath and say ; and first, this deponent *E. F.* for himself saith, that, &c. (*stating what is sworn to by E. F.*) And this deponent *G. H.* for himself saith, that, &c. (*stating what is sworn to by G. H.*)

The above-named deponents *E. F.* and *G. H.* were sworn in Court, *or, "at my Chambers,"* &c. (*as above.*)

For the form of the *jurat* of an affidavit sworn before the officer who issues the process, or his deputy, or before the officer for entering common appearances, *vide ante*, pp. 74. 93.

— on (*or next after*) —, in the — year of the reign of king *George the Fourth.*

B. } Upon reading the affidavit, (&c.) It is ordered, &c. (*stating the*
v. } *subject matter of the rule, and concluding in the usual way.*)
D. }

(§ 6.)
Jurat of affidavit, when sworn in court.

Prac. 491, 2.
494, 5.

(§ 7.)
The like, when sworn before a judge, or baron.
Prac. 491, 2.
494, 5.

(§ 8.)
The like, when sworn before a commissioner.
Prac. 491, 2.
494, 5.

(§ 9.)
The like, when made by an *illiterate* person.
Prac. 495.

(§ 10.)
Beginning of affidavit, when made by several deponents.
Prac. 495.

(§ 11.)
Jurat of same.
Prac. 495.

(§ 12.)
Rule absolute in first instance, in *K. B.*
Prac. 485.

(§ 12. a.)
The like, in
C. P.
Prac. 485.

In the Common Pleas.

— term, in the — year of the reign of king *George*
the Fourth.

B. against D. —, (*the day of the week and month on which the rule is made; as "Saturday, 6th November."*)

Upon reading the affidavit, (&c.) It is ordered, (&c.)

(§ 12. b.)
The like, in the
Exchequer.
Prac. 485.

— term, &c. (*as in last.*)

— the — day of —. *A. B. against C. D.*

Upon reading the affidavit, (&c.) It is ordered, (&c.)

(§ 13.)
Rule nisi, in
K. B.
Prac. 485.

— on (*or next after*) —, &c. (*as in § 12.*)

B. } Upon reading the affidavit of *E. F.* (*or, several affidavits of E. F.*
v. } and *I. K.*) and the paper writing, *or* writings, (*if any,*) thereto an-
D. } nexed; It is ordered, that the plaintiff, (*or defendant,*) upon notice of
this rule to be given to his attorney, shall, upon — next after —,
shew cause, why, (&c.)

(§ 13. a.)
The like, to
shew cause be-
fore a judge at
chambers.
Prac. 502.

Upon reading the affidavit, &c. (*as in last;*) It is ordered, that the
plaintiff, (*or defendant,*) upon notice of this rule to be given to his attor-
ney, shall shew cause, within a week, before a judge at chambers, why, (&c.)
In the Common Pleas, &c. (*as above.*)

(§ 14.)
Rule nisi, in
C. P.
Prac. 485.

Upon reading the affidavit, &c. (*as above;*) It is ordered, that the
plaintiff, (*or, defendant,*) upon notice of this rule to be given to him or
his attorney, shall shew cause to this court, on — next, why, (&c.)

(§ 14. a.)
The like, to
shew cause be-
fore a judge at
chambers.
Prac. 502.

In the Common Pleas, &c. (*as above.*)

Upon reading the affidavit of *G. H.* gentleman, attorney for the de-
fendant; It is ordered, that the plaintiff, upon notice of this rule to be
given to him or his attorney, shall shew cause, before one of the judges
of this court, at his chambers, in *Serjeants' Inn, Chancery-lane*, on —
next, why, (&c.)

(§ 15.)
Affidavit of ser-
vice of rule, in
K. B. or C. P.
Prac. 501.

In the King's Bench, (*or Common Pleas.*) *A. B.* plaintiff, &c. (185.)

I. K. of — clerk to *E. F.* gentleman, attorney for the above-named
plaintiff, maketh oath and saith, that he this deponent did, on the —
day of — instant, (*or last,*) personally serve Mr. *G. H.* the attorney for
the above-named defendant, with a true copy of the rule hereunto an-
nexed, (*adding, where personal service is necessary, "and at the same time*
shewed him the said original rule;") *or, (if personal service is not neces-*
sary,) "did, on the — day of — instant, (*or last,*) serve Mr. *G. H.*
the attorney for the above-named defendant, with a true copy of the rule
hereunto annexed, by delivering the same to, and leaving it with a clerk
(*or servant*) of the said *G. H.* at his house, (*or chambers,*) in —."

Sworn, &c. (175.)

I. K.

(§ 16.)
Rule absolute,
when no cause is
shewn, in K. B.
Prac. 501.

— on (*or next after*) —, &c. (*as in § 12.*)

B. } Upon reading the rule made in this cause, on — next after —
v. } in this term, the affidavit of *I. K.* (*of service,*) and no cause being
D. } shewn to the contrary; It is ordered, that, (&c.)

In the Common Pleas, &c. (§ 12. a.)

Upon reading a rule made in this cause on — last, the affidavit of *I. K.* of the due service of the said rule, and no cause being shewn to this court to the contrary; It is ordered, that, (&c.)

(§ 16. a.)
The like, in
C. P.
Prac. 501.

— on (or next after) —, &c. (§ 12.)

B. } Upon reading the rule made in this cause on — next after —,
v. } the affidavit of *I. K.*, and upon hearing *Mr. J. R. Miller*, of counsel
D. } for the plaintiff, and *Mr. O. Woodhouse*, of counsel for the defendant;
It is ordered, that the first day of the next term be further peremptorily given to the plaintiff, (or defendant,) to shew cause, why, (&c.)

(§ 16. b.)
Form of enlarged rule, in
K. B.
Prac. 502.

In the Common Pleas, &c. (§ 12. a.)

Upon reading a rule made in this cause on — last, and on hearing counsel on both sides; It is ordered, that the time for the plaintiff (or defendant) to shew cause to this court, why, (&c.) be, and the same is hereby enlarged, until the first day of next — term: And it is further ordered, that all and every such affidavit or affidavits as the plaintiff (or defendant) intends to have read at the time of shewing cause as aforesaid, be filed one week before the said first day of next — term.

(§ 16. c.)
The like, in
C. P.
Prac. 502, 3.

On the motion of *Serjt. E. Lawes* for the }
plaintiff, *Serjt. Andrews* for the defendant. }

By the Court.

— on (or next after) —, &c. (§ 12.)

B. } Upon reading the rule made in this cause on — next after —,
v. } the affidavit of *I. K.*, and upon hearing *Mr. C. Moore*, of counsel for
D. } the plaintiff, and *Mr. Rundle Jackson*, of counsel for the defendant;
It is ordered, that, (&c.)

(§ 16. d.)
Form of rule absolute, when cause is shewn, in K. B.
Prac. 503.

In the Common Pleas, &c. (§ 12. a.)

Upon reading a rule made in this cause on — last, the affidavit of *I. K.*, and on hearing counsel on both sides; It is ordered, that, (&c.)

(§ 16. e.)
The like, in
C. P.
Prac. 503.

— on (or next after) —, &c. (§ 12.)

B. } Upon reading the rule made in this cause on — next after —,
v. } the affidavit of *I. K.*, and upon hearing *Mr. C. H. Hammond*, of coun-
D. } sel for the plaintiff, and *Mr. C. Dundas*, of counsel for the defendant;
It is ordered, that the said rule be discharged. By the Court.

(§ 16. f.)
Form of discharged rule, generally, in K. B.
Prac. 503.

B. } Upon reading, &c. (as in last;) It is ordered, that the said rule
v. } be discharged, without costs. By the Court.

(§ 16. g.)
The like, when discharged without costs.
Prac. 503, 4.

B. } Upon reading, &c. (as in § 16. f.) It is ordered, that the said rule
v. } be discharged with costs: And it is referred to the master, to tax
D. } such costs; which costs, when taxed, shall be paid by the plaintiff (or defendant) to the defendant, (or plaintiff,) or his attorney. By the Court.

(§ 16. h.)
The like, when discharged with costs.
Prac. 503, 4.

In the Common Pleas, &c. (§ 12. a.)

Upon reading a rule made in this cause on —, the affidavit of *I. K.*, and on hearing counsel on both sides; It is ordered, that the said rule be, and the same is hereby discharged: And it is further ordered, that the defendant do and shall pay to the plaintiff, or his attorney, his costs of and occasioned by this application to the court, to be taxed by one of the prothonotaries of this court. By the Court.

(§ 16. i.)
The like, in
C. P.
Prac. 503, 4.

CHAP. XX.

NOTICES of MOTION ; AFFIDAVITS ; and RULES of COURT, &c. for SETTING ASIDE, and STAYING PROCEEDINGS.

(§ 1.)
Notice of motion, to set aside proceedings, for irregularity.

Prac. 512. (a.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

TAKE notice, that this honourable court will be moved to-morrow, (*or, on — next,*) or so soon after as counsel can be heard, for a rule to shew cause, why all the proceedings in this cause should not be set aside for irregularity, with costs, to be taxed by the master, (*in the King's Bench, or Exchequer ; or, in the Common Pleas, “ by one of the prothonotaries ;”*) and in the mean time all further proceedings be stayed. Dated, &c. (*as in p. 97. § 25. with the like subscription, and direction.*)

(§ 2.)
The like, to set aside interlocutory judgment, &c. for irregularity.

Prac. 512. (a.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

TAKE notice, that this honourable court will be moved, &c. (*as above,*) for a rule to shew cause, why the interlocutory judgment signed in this cause, and (*if a writ of inquiry has been executed,*) the writ of inquiry executed thereon, should not be set aside for irregularity, with costs, to be taxed by the master, (*in the King's Bench, or Exchequer ; or, in the Common Pleas, “ by one of the prothonotaries ;”*) and (*if there has been any misconduct on the part of the plaintiff,*) why the plaintiff should not answer the matters of the affidavit ; and in the mean time all proceedings be stayed. Dated, &c. (*as directed above.*)

(§ 3.)
The like, to set aside judgment and execution, for irregularity, and that the money levied be restored.

Prac. 512. (a.)

TAKE notice, that this honourable court will be moved, &c. (*as above,*) for a rule to shew cause, why the judgment signed in this cause, and the execution issued and executed thereon, should not be set aside for irregularity, with costs, to be taxed by the master, (*in the King's Bench, or Exchequer ; or, in the Common Pleas, “ by one of the prothonotaries ;”*) and why the sum of —*l.* levied and paid into the hands of the sheriff of —, should not be restored to the defendant, and why the said sheriff should not retain the same in his hands, until the further order of this court, and in the mean time all further proceedings be stayed. Dated, &c. (*as directed above.*)

(§ 4.)
The like, with notice to the sheriff, to retain money levied.

Prac. 512. (a.)

TAKE notice, that this honourable court will be moved, &c. (*as above,*) for a rule to shew cause, why the judgment in this cause, and the execution executed thereon, should not be set aside for irregularity, with costs, to be taxed by the master, (*in the King's Bench, or Exchequer ; or, in the Common Pleas, “ by one of the prothonotaries ;”*) and why the money paid into your hands should not be restored to the defendant ; and that in the mean time you retain the same, until the further order of this court. Dated, &c. (*as directed above, in § 1.*)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

(§ 5.)

C. D. of —, the above-named defendant, maketh oath and saith, that he this deponent was, on the — day of — instant, (or last,) personally served with the paper writing hereto annexed, purporting to be a copy of a writ of —, issuing out of this honourable court: And this deponent further saith, that he hath not been served with any other paper writing in the above cause, save and except the said paper writing hereunto annexed.

Affidavit, to set aside proceedings, for defect in service of process.

Prac. 512, 3.

Sworn, &c. (175.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

(§ 5. a.)

C. D. of —, the above-named defendant, maketh oath and saith, that he was, on the — day of — instant, (or last,) served with the paper writing hereunto annexed, purporting to be a copy of a writ of —, issued out of this honourable court, and directed to the sheriff of the county of K., at his this deponent's dwelling house, situate in —, in the county of S. And this deponent further saith, that —, the said place where this deponent resides, and where he was so served with the said paper writing as aforesaid, is not on the borders of the county of K., but is well known to be within the said county of S.; and that this deponent hath not been served with any other copy of process in this cause, issuing out of this honourable court, and directed to the sheriff of the said county of S.

The like, for service of writ in wrong county.

Prac. 512, 13.

Sworn, &c. (175.)

C. D.

— on, (or next after) —, &c. (175.)

*B. } Upon reading the affidavit of I. K. It is ordered, that the plaintiff,
v. } upon notice of this rule to be given to him or his attorney, shall upon
D. } — shew cause, why the interlocutory judgment in this cause, and all further proceedings, should not be set aside for irregularity, with costs to be taxed by the master; and that in the mean time all further proceedings be stayed. On the motion of Mr. W. Watson. By the Court.*

(§ 6.)

Rule nisi, for setting aside interlocutory judgment for irregularity, in K. B.

Prac. 512. (c.)

In the Common Pleas, &c. (176.)

(§ 6. a.)

The like, in C. P.

Prac. 512. (c.)

Upon reading the affidavit of G. H. and the paper writing (if any,) thereto annexed, It is ordered, that the plaintiff, upon notice of this rule to be given to him or his attorney, shall shew cause to this court on — next, why the interlocutory judgment signed in this cause, should not be set aside for irregularity; and why the plaintiff should not pay to the defendant, or his attorney, his costs of and occasioned by this application to the court, to be taxed by one of the prothonotaries of this court; and in the mean time, and until this court shall otherwise order, let all further proceedings in this cause be stayed.

On the motion of Serjt. E. Lawes for the defendant.

By the Court.

Griffith.

In the King's Bench, (or Common Pleas.)

A. B. plaintiff, &c. (185.)

(§ 7.)

Notice, not to make rule absolute.

Prac. 512. (c.)

Being aware of the irregularity for which you have obtained a rule nisi to set aside the proceedings in this cause, I hereby give you notice, not to proceed further to make this rule absolute; and if you will deliver to me

CHAP. XX. a bill of the costs already incurred by the motion, the said plaintiff will pay the amount thereof, upon the same being taxed by the proper officer. Dated, &c. (*as in p. 96. § 24. with the like subscription, and direction.*)

(§ 8.)

Notice of motion, to stay proceedings, till security be given for costs.

Prac. 534. 538.

(a.)

(§ 9.)

Affidavit, to stay proceedings, till security be given for costs.

Prac. 534. 538.

(a.)

In the King's Bench, &c. (185.) A. B. plaintiff, &c. (*id.*)

Take notice that this honourable court will be moved, &c. (*as in § 1.*)

for a rule to shew cause, why all the proceedings in this cause should not be stayed, until security be given for the payment of costs. Dated, &c.

(*as in p. 97. § 25. with the like subscription, and direction.*)

In the King's Bench, (or Common Pleas.) A. B. plaintiff, &c. (185.)

C. D. of —, the above-named defendant, and G. H. of — gentleman, attorney for the said defendant, severally make oath and say; and first, this deponent C. D. for himself saith, that the place of residence of the above-named plaintiff is at —, in the kingdom of —, and that he the said plaintiff usually resides there, and that he is now, as this deponent hath heard and verily believes, residing there. And this deponent further saith, that he was arrested (*or, served with process*) in this action, on or about the — day of — last past. And this deponent G. H. for himself saith, that a declaration in this cause hath been duly delivered, (*or, filed, and a notice thereof duly served,*) but that the said defendant hath not as yet pleaded thereto: And this deponent further saith, that a common appearance hath been duly entered (*or, common bail hath been duly filed, or, special bail hath been duly put in and perfected*) in this cause, for the said C. D. And this deponent G. H. further saith, that he did, on the — day of — last past, for and on the part and behalf of the said defendant, demand of E. F. gentleman, attorney for the above-named plaintiff, security for costs in this action; but that the said E. F. refused to give any such security; and thereupon this deponent did, on the said — day of — last past, serve the said E. F. with a true copy of the notice hereunto annexed, by delivering the same to a clerk of the said E. F. at his chambers in —. C. D.

The above-named deponents C. D. and G. H. } G. H.
were sworn in court, &c. (*as in p. 175.*) }

— on, (*or next after*) — &c. (175.)

(§ 10.)

Rule nisi thereon.

Prac. 537. (c.)

B. } Upon reading the affidavit of C. D. and another; It is ordered,
v. } that the plaintiff, upon notice of this rule, to be given to him or his
D. } attorney, shall on —, shew cause, why further proceedings in this cause should not be stayed, until the plaintiff shall have given such security for the costs in this cause, in case he shall be nonsuit, discontinue, or a verdict be given for the said defendant, as the master (*or, prothonotary*) shall approve of; and that in the mean time proceedings be stayed. Upon the motion of Mr. O'Brien.

By the Court.

CHAP. XXI.

PROCEEDINGS *on* COMPROMISING, *and* COMPOUNDING *the*
ACTION.

LET the plaintiff's attorney or agent attend me, at my chambers in *Serjeants' Inn*, at — of the clock in —, to shew cause why, upon payment of —*l.* the debt for which this action is brought, together with costs to be taxed, all further proceedings in this cause should not be stayed. Dated the — day of — 18—.

(§ 1.)
Summons to stay proceedings, on payment of debt and costs, in K. B. or C. P.

Prac. 540.

Upon hearing the attorneys or agents on both sides, I do order, that upon payment of —*l.* the debt due from the defendant to the plaintiff, for which this action is brought, together with costs to be taxed and paid, all further proceedings in this cause be stayed. Dated, &c. (*as above.*)

(§ 2.)
Order thereupon.

Prac. 540.

In the King's Bench, &c. (185.) *A. B.* plaintiff, &c. (*id.*)

(§ 3.)

Take notice that this honourable court will be moved on — next, or so soon after as counsel can be heard, for a rule to shew cause, why it should not be referred to the master, (*in the King's Bench, or Exchequer; or, in the Common Pleas*, “to one of the prothonotaries,”) to compute the principal and interest due upon the bond in question; and why, upon payment thereof, together with the costs to be taxed by him, the said bond should not be delivered up to the defendant to be cancelled. Dated, &c. (*as in p. 96. § 24. with the like subscription, and direction.*)

Notice of motion, for master, or prothonotaries, to compute principal and interest, on bond.

Prac. 542. (*h.*)

To *E. F. G. H.* and *I. K.* gentlemen, attorneys of his majesty's court of King's Bench (*or* Common Pleas) at *Westminster*, jointly and severally, or to any other attorney of the same court; (*or, in the Exchequer*, “To *E. F.* &c. (*naming the four attorneys of the court,*) attorneys of his majesty's court of Exchequer at *Westminster*, jointly and severally.”)

(§ 4.)
Warrant of attorney, to confess judgment.

Prac. 545.

THESE are to desire and authorize you, the attorneys above-named, or any one of you, or any other attorney of the court of King's Bench (*or*, Common Pleas) aforesaid, to appear for me *C. D.* of —, in the said court, as of this present — term, or any other subsequent term, and then and there to receive a declaration for me, in an action of *debt* for —*l.* for money borrowed, (*or*, “on a bond or obligation made and entered into by me the said *C. D.* to *A. B.* in the penal sum of —*l.*”) at the suit of the said *A. B.* his executors or administrators; and thereupon to confess the same action, or *else* to suffer a judgment by *nil dicat*, or otherwise, to pass against me in the same action, and to be thereupon forthwith entered up against me of record in the said court, for the said

CHAP. XXI. sum of —*l.* besides costs of suit : And I the said *C. D.* do hereby further authorize and empower you the said attornies, or any one of you, after the said judgment shall be entered up as aforesaid, for me and in my name, and as my act and deed, to sign, seal, and execute a good and sufficient release in the law to the said *A. B.* his heirs, executors and administrators, of all and all manner of error and errors, writ and writs of error, and all benefit and advantage thereof, and all misprisions of error and errors, defects and imperfections whatsoever, had, made, committed, done or suffered, in, about, touching or concerning the aforesaid judgment, or in, about, touching or concerning any writ, warrant, process, declaration, plea, entry, or other proceedings whatsoever, of or any way concerning the same : And for what you the said attornies, or any one of you, shall do or cause to be done in the premises, or any of them, this shall be to you, and every of you, a sufficient warrant and authority. In witness whereof, I have hereto set my hand and seal, the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—. *C. D.*

Sealed and delivered, being first duly }
stamped, in the presence of, *L. M.* }

(§ 5.)
Defeazance
thereon.

Prac. 546.

A. B. } Memorandum, that the within warrant of attorney is given for
v. } securing the payment, from the within-named *C. D.* to the with-
C. D. } in-named *A. B.* of the sum of —*l.* and interest, on the days
and in manner following, (*or, if on bond,* “ according to the condition of
the within-mentioned bond,”) that is to say, the sum of —*l.* part
thereof, together with interest for the same, on the — day of — 18—,
and the further sum of —*l.* residue thereof, together with interest for
the same, on the — day of — 18— : And it is agreed by the said
parties, that no action, execution, or other process or proceedings shall be
commenced, sued out, or prosecuted against the said *C. D.* his heirs, ex-
ecutors, administrators, lands, goods and chattels, upon the judgment to
be entered up in pursuance of the within warrant, until default shall hap-
pen to be made in payment thereof. As witness our hands, the day and
year within written.

Witness,

L. M.

A. B.

C. D.

(§ 6.)

Affidavit, to en-
ter up judg-
ment, after a
year.

Prac. 552, 3.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

A. B. of —, the above-named plaintiff, and *L. M.* of —, severally make oath and say ; and first, this deponent *A. B.* for himself saith, that the above-named defendant, being justly indebted to this deponent, in the sum of —*l.* for goods sold and delivered by this deponent to the said defendant, (*or, as the case may be,*) did, in order to secure unto this deponent the payment thereof, on or about the — day of — 18—, (*or, if the warrant of attorney be to enter up judgment on a bond,* “ that the above-named defendant being justly indebted to this deponent, in the sum of —*l.* did by his bond or obligation, bearing date, (&c.) become bound to him this deponent, in the penal sum of —*l.* conditioned for the pay-

ment of the said sum of —*l.* and interest for the same, after the rate of —*l. per cent. per annum*, at a certain day therein mentioned, and now past : And for better securing the payment of the said sum of —*l.* and interest, the said *C. D.* did, on the same day and year,") execute and deliver unto this deponent, a warrant of attorney, bearing date the same day and year aforesaid, thereby authorizing certain attornies therein named, or any other attorney of this court, to appear for him the said *C. D.* in the same court, as of the then — term, or any other subsequent term, and then and there to receive a declaration for him, in an action of *debt* for —*l.* for money borrowed, (*or "upon the said bond or obligation," or otherwise, according to the warrant of attorney,*) at the suit of this deponent, and thereupon to confess the same action, or else to suffer a judgment by *nil dicit* or otherwise, to pass against him in the same action, and to be thereupon forthwith entered up against him of record of this court, for the said sum of —*l.* besides costs of suit : And this deponent further saith, that the said sum of —*l.* is still wholly due and owing from the said *C. D.* to him this deponent, (*or, upon a bond, "that there is justly due and owing from the said defendant to him this deponent, for principal money and interest upon the said bond or obligation, by the condition thereof, the sum of —l."*) and that he verily believes the said defendant is living, he this deponent having seen and conversed with him, on the — day of this instant —. And this deponent *L. M.* for himself saith, that he was present, and did see the said warrant of attorney executed by the said defendant, and that the name *C. D.* set and subscribed at the foot thereof, is of the proper hand-writing of the said defendant ; and that he the said defendant did sign, seal, and as his act and deed deliver the same, in the presence of this deponent ; and that the name *L. M.* set and subscribed as a witness to the execution thereof, is of the proper hand-writing of him this deponent. A. B.

Sworn, &c. (175.)

L. M.

— on (*or next after*) — &c. (175.)

B. Upon reading the affidavit of *A. B.* and *L. M.* and the warrant
v. } of attorney therein mentioned ; It is ordered, that the plaintiff have
D. } leave to enter up judgment against the said defendant, upon the said
warrant of attorney, as of this term. Upon the motion of *Mr. Barron.*

(§ 7.)
Rule thereon,
in K. B.
Prac. 552, 3.

By the Court.

The *memorandum* or minute of warrant, to enter up judgment on a warrant of attorney, is disused, in consequence of the statute 5 Geo. IV. c. 41.

(§ 8.)
Prac. 96.

In the King's Bench, &c. (185.)

A. B. who, &c. plaintiff,
and

C. D. . . . defendant.

A. B. of —, the above-named plaintiff, maketh oath and saith, that this action is brought for the recovery of certain penalties, to the amount of —*l.* alleged to have been incurred by the above-named defendant,

(§ 9.)
Affidavit, for
leave to com-
pound penal
action.
Prac. 556.

CHAP. XXI. upon and by virtue of an act of parliament, made and passed in the — year of the reign, (&c.) intituled, (&c.) and this deponent hath declared in the said action against the defendant, who has pleaded thereto the general issue of *nil debet*: And this deponent further saith, that it hath been agreed between this deponent and the said defendant, to apply to this honourable court, for leave to compound the said action, upon the defendant's paying the sum of —*l.* to our lord the now king, and —*l.* to this deponent, together with the costs of this suit, and of the present application, to be taxed by the proper officer, (*or otherwise, according to the agreement of the parties* :) And this deponent further saith, that the above are the real and only terms upon which this action is meant to be compounded; and that he this deponent hath not, nor hath nor have any other person or persons for his use, received any sum of money whatsoever, for compounding the said action; nor doth he this deponent intend, nor is nor are any other person or persons, by his order or appointment, or for his use, or for the use of any other person or persons to his knowledge, or with his privity and consent, at any time hereafter to have or receive, for compounding the same, more than the said sum of —*l.* and the costs to be taxed as aforesaid.

Sworn, &c. (175.)

A. B.

— on (*or next after*) —, &c. (175.)

(§ 10.)
Rule thereon,
in K. B.
Prac. 556.

B. } Upon reading the affidavit of A. B. and upon hearing Mr.
who, &c. } Briggs, of counsel for the plaintiff, and by the consent of Mr.
v. }
D. } Woodfall, of counsel for the defendant; and the sum of —*l.*
being a moiety of the composition agreed to be accepted in full satisfaction and discharge of this suit, being paid into the hands of *Edmund Henry Lushington* Esquire, the master of the crown office, for the use of his majesty; and the defendant hereby undertaking to pay to the plaintiff, or his attorney, the sum of —*l.* the other moiety thereof, together with the costs of suit, and of this application, to be taxed by the master; It is ordered, that the plaintiff, who sues as well for our sovereign lord the king as for himself, have leave to compound this action with the defendant, for the sum of —*l.* being — of the penalties mentioned in the declaration in this cause, for the offences for which this action is brought, namely, for — (*describing the general nature of the offences*,) contrary to the provisions of the statute of the — year of his present majesty's reign, (*or*, “of the reign of his late majesty, King —,”) Chapter —. Upon the motion of Mr. Briggs. By the Court.

CHAP. XXII.

JUDGMENTS *by* CONFESSION, *and* DEFAULT ; ASSESSMENT *of* DAMAGES, *by* REFERENCE *to the* MASTER *or* PROTHONOTARIES, *or by* WRIT *of* INQUIRY ; *and* PROCEEDINGS *on the* STATUTE 8 & 9 W. III. c. 11. § 8, &c.

In the King's Bench,
(Common Pleas, *or*
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 1.)
Confession of
the action, in
assumpsit.
Prac. 559, 60.

I CONFESS this action, and that the plaintiff hath sustained damages to the amount of — *l.* (*the damages laid in the declaration,*) besides his costs and charges, to be taxed by the master, (*in the King's Bench, or Exchequer ; or "by one of the prothonotaries," in the Common Pleas ;*) and in case I shall make default in payment of the sum of — *l.* (*the real debt,*) being the debt in this action, together with the said costs, on the — day of — next, the plaintiff shall be at liberty to enter up judgment for the said sum of — *l.* (*the sum confessed,*) and to sue out execution thereon, for the said sum of — *l.* (*the real debt,*) and also for the costs of entering up such judgment, and of suing out execution thereon, officer's fees, sheriff's poundage, costs of levying, and all other incidental expences : And I do hereby undertake, not to bring any writ of error, nor file any bill in equity, nor do any other matter or thing whatsoever, to delay the said plaintiff from entering up his judgment, or suing out execution thereon, as aforesaid. Dated the — day of — 18—.

Witness, *E. F.*

C. D.

I confess the debt in this cause, and that the plaintiff hath sustained damages to the amount of 1*s.* besides his costs and charges, to be taxed by the master, &c. (*as above.*)

(§ 2.)
The like, in
debt.
Prac. 559, 60.

I do hereby agree to withdraw the plea (*or* demurrer) by me pleaded (*or* put in) in this cause ; and do confess this action, or the debt therein, &c. (*as before.*)

(§ 3.)
The like, *relicta*
verificatione.
Prac. 559.

The memorandum or minute of warrant, to enter up judgment on a *cognovit actionem*, is disused, in consequence of the statute 5 Geo. IV. c. 41.

(§ 4.)
Prac. 96,

As yet of — term, (*the term of which judgment is signed,*) in the — year of the reign of king George the Fourth. Witness Charles Lord Tenterden.

Ellenborough.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* of a plea of trespass on the case upon promises.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

(§ 5.)
Judgment by
cognovit actionem et damna, in *assumpsit* by bill, of the same term with the declaration, in *K. B.*
Prac. 560. 930.

CHAP.
XXII.

— (to wit.) Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king, before the king himself, now here, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king, before the king himself, of a plea of trespass on the case upon promises ; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe* ; which said bill follows in these words, that is to say : — (to wit.) *A. B.* complains of *C. D.* being in the custody, &c. (*here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows :*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him ; nor but that the said *A. B.* hath sustained damages, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to — *l.* as by the said declaration is above supposed : And hereupon the said *A. B.* prays judgment, and his damages so acknowledged, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c. : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to — *l.* in form aforesaid acknowledged, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; which said damages, costs and charges, in the whole amount to — *l.* : and the said *C. D.* in mercy, &c.

Judgment
signed the —
day of —, 18—.

Mercy.

(§ 6.)

The like, of a
different term,
with an impar-
lance, in *K. B.*
Prac. 560. 930.

As yet of — term, &c. (*as in last.*)

(*Entry of warrants of attorney, as in last.*)

— (to wit.) Be it remembered, that in — term last past, before our lord the king at *Westminster*, came *A. B.* by *E. F.* his attorney, and brought into the court of our said lord the king, before the king himself, then there, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king, before the king himself, of a plea of trespass on the case upon promises ; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe* ; which said bill follows in these words, that is to say : — to wit. *A. B.* complains of *C. D.* &c. (*Here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows :*)

Prac. 678.

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by *G. H.* his attorney ; and the said *C. D.* defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (*as in the last.*)

As yet of — term, &c. (185.)

(Entry of warrants of attorney, as in the last but one.)

— (to wit.) C. D. was attached to answer A. B. &c. (Here copy the declaration verbatim, and proceed, on a new line, as follows :)

And the said C. D. by G. H. his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (as in the last but one, to the end.)

In the Common Pleas, the warrants of attorney are not entered on the judgment roll : In other respects, the entry of the judgment by *cognovit actionem* in that court, is the same as in the King's Bench by *original*.

And the said C. D. by G. H. his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said A. B. nor but that the said E. F. in his life-time did undertake and promise, in manner and form as the said A. B. hath above in that behalf alleged ; nor but that the said A. B. hath sustained damages, &c. (as in p. 186, to the judgment, which is as follows :) Therefore it is considered, that the said A. B. do recover against the said C. D. executor (or administrator) as aforesaid, his damages aforesaid, to —l. in form aforesaid acknowledged, and also —l. for his said costs and charges, by the court of our said lord the king now here adjudged to the said A. B. and with his assent ; which said damages, costs and charges, in the whole amount to —l. to be levied of the goods and chattels which were of the said E. F. at the time of his death, in the hands of the said C. D. as executor (or administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then —l. parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said C. D. ; and the said C. D. in mercy, &c.

(To the end of the plea, and then as follows :) And hereupon, inasmuch as the said C. D. doth not deny the action of the said A. B. nor but that the said E. F. in his life-time did undertake and promise, in manner and form as the said A. B. hath above in that behalf alleged ; and inasmuch as the said A. B. cannot deny but that the said C. D. hath not any goods or chattels, which were of the said E. F. at the time of his death, in his hands to be administered, in manner and form as the said C. D. hath above in his said plea in that behalf alleged ; the said A. B. prays judgment, and his damages by him sustained, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him ; to be levied of the goods and chattels which were of the said E. F. at the time of his death, and which, after final judgment in this respect, shall come to the hands of the said C. D. to be administered : Therefore it is considered, that the said A. B. do recover against the said C. D. his damages by him sustained on occasion of the premises aforesaid, to be levied in form aforesaid : But because it is unknown, &c. (award of inquiry and return, as in a judgment by *nil dicit in assumpsit*, for which vide post, § 37, making no mention of

(§ 7.)

The like, by original, in K. B.

Prac. 560. 930.

(§ 8.)

The like, in C. P.

Prac. 560. 930.

(§ 9.)

Judgment by *cognovit actionem*, in *assumpsit*, against an executor or administrator, in K. B. or C. P.

Prac. 560. 930, 31.

Judgment signed, &c. (186.)

Mercy.

(§ 10.)

Judgment of assets in *futuro*, on a plea of *plene administravit in assumpsit*, in K. B. or C. P.

Prac. 677. 979, 80.

Judgment
signed, &c.
(186.)

costs, and final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the inquisition aforesaid above found, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

(§ 11.)
The like, after
satisfying judg-
ment debts.

Prac. 677.

(To the end of the plea, and then as follows:) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alleged; and inasmuch as the said *A. B.* cannot deny the several matters above pleaded by the said *C. D.* but admits the same to be true; prays judgment, and his damages by him sustained, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which, after satisfying the monies due and owing to the said *L. M.* and *N. O.* on the said judgments in the said last plea respectively mentioned, shall hereafter come to the hands of the said *C. D.* as executor as aforesaid, to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages by him sustained on occasion of the premises aforesaid, to be levied in form aforesaid: But because it is unknown, &c. (*award of inquiry and return, as directed in the last; final judgment as follows:)* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages, costs and charges, in the whole amount to — *l.* to be levied of the goods and chattels which were of the said *E. F.* deceased, at the time of his death, and which, after satisfying the monies due and owing to the said *L. M.* and *N. O.* on the said judgments in the said last plea respectively mentioned, shall hereafter come to the hands of the said *C. D.* as executor as aforesaid, to be administered: and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

(§ 12.)
The like, of as-
sets acknow-
ledged in part,
and for the re-
sidue of assets
in futuro, on a
plea of *plene*
administravit
præter, in as-
sumpsit.

Prac. 677.

(To the end of the plea, and then as follows:) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake, &c. (*as in the last;*) and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of — *l.* as aforesaid, prays judgment, and his damages by him sustained, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied, as to — *l.* part thereof, of the said goods and chattels so remaining in the hands of the said *C. D.* unadministered as aforesaid, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death,

and which, after final judgment in this respect, shall come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages by him sustained on occasion of the premises, to be levied in form aforesaid: But because it is unknown, &c. (*award of inquiry and return, as directed in the last but one; final judgment as follows:*) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said damages, by the inquisition aforesaid above found, to be levied, as to the said — *l.* part thereof, of the goods and chattels so remaining in the hands of the said *C. D.* unadministered as aforesaid, and as to the residue thereof, to be levied of other goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

Judgment
signed, &c.
(186.)

(*After the declaration, proceed on a new line as follows:*)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: And the said *E. F.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says, &c. (*to the end of the plea.*) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said *J. K.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alleged; and inasmuch as the said *A. B.* cannot deny but that the said *E. F.* hath fully administered all and singular the goods and chattels, which were of the said *J. K.* deceased at the time of his death, and which have ever come to his hands to be administered; and that he hath not, nor on the day of suing forth the original writ aforesaid, nor at any time since, had any goods or chattels which were of the said *J. K.* deceased, in his hands to be administered, in manner and form as the said *E. F.* hath above in his said plea in that behalf alleged; prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied, as against the said *C. D.* of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then so much of the damages aforesaid as shall be adjudged to him for his costs and charges by him about his suit in this behalf expended, to be levied of the proper goods and chattels of the said *C. D.*; and as against the said *E. F.* to be levied, except as to the costs and charges aforesaid, of the goods and chattels which were of the said *J. K.* at the time of his death, and which, after final judgment in this respect, shall come to the hands of the said *E. F.* as executor as aforesaid, to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* and *E. F.*

(§ 13.)

The like, in
C. P. against
two executors,
where one let
judgment go by
default, and the
other pleaded
plene adminis-
travit, on which
plaintiff took
judgment of
assets *quando*
acciderint.

Prac. 677.

CHAP.
XXII.Judgment
signed, &c.
(186.)

his damages by him sustained on occasion of the premises aforesaid, to be levied in form aforesaid: But because it is unknown to the justices here, what damages the said *A. B.* hath sustained by means of the premises, the sheriff is commanded, &c. (*award of inquiry and return, as in a judgment by nil dicit in assumpsit, in C. P. for which vide post, § 40. final judgment as follows:*) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* and *E. F.* his damages aforesaid, to — *l.* by the inquisition aforesaid above found, to be levied, as against the said *C. D.* of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, and as against the said *E. F.* to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *E. F.* as executor as aforesaid to be administered: It is also considered by the justices here, that the said *A. B.* do recover against the said *C. D.* the costs and charges aforesaid, by the said inquisition above found, and also — *l.* for his said costs and charges, by the said justices here adjudged of increase to the said *A. B.* and with his assent, to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, to be levied of the proper goods and chattels of the said *C. D.*; and the said *C. D.* in mercy, &c.

Mercy.

(§ 13. a.)

The like, in *assumpsit*, against an executor, in *K. B.* for a bill of costs referred by rule of court to be taxed, after plea pleaded; the defendant consenting that judgment might be signed for the sum found to be due.

Prac. 677.

(*To the end of the plea, and then as follows:*) And the said *A. B.* prays a day to imparl to the said plea of the said *C. D.* and it is granted to him, &c.: And hereupon a day is given to the said *A. B.* before our said lord the king at *Westminster*, until —, that is to say, for the said *A. B.* to imparl to the said plea of the said *C. D.* and then to reply to the same; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid: And hereupon, by a certain rule or order of the said court of our said lord the king before the king himself, it is ordered by the same court, that the bill of costs in this cause, (that is to say, the bill of costs for the recovery of which this action is brought,) be referred to the master of the said court to be taxed; the said *C. D.* thereby undertaking to pay what shall be found due; and that the said *A. B.* give credit before the said master, for sums received on account; the said *C. D.* thereby consenting, that the said plaintiff shall be at liberty to sign judgment, and issue execution, for such sum as the master shall find due: And because it is suggested and proved, and manifestly appears to the court here, that the said bill of costs so referred as aforesaid, has been taxed by the master of the said court; and that after the said *A. B.*'s giving credit before the said master, for sums received on account, the said master did find the sum of — *l.* to be due from the said *C. D.* as executor as aforesaid, to the said *A. B.*; and that the said *C. D.* hath not paid the said sum of — *l.* or any part thereof, to the said *A. B.* according to his undertaking

aforesaid, but the same is still wholly due and unpaid to the said *A. B.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* as executor as aforesaid, the said sum of —*l.* so found to be due as aforesaid, and also —*l.* for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; which said sum of —*l.* with the costs and charges aforesaid, in the whole amount to —*l.*, to be levied of the goods and chattels which were of the said *I. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered ; and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

And the said *A. B.* forasmuch as the said *C. D.* doth not deny the said action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him, nor but that he the said *A. B.* ought to recover his damages by reason of the non-performance of the said several promises and undertakings in the said declaration mentioned, against the said *C. D.* ; and forasmuch as the said *A. B.* cannot deny the said several allegations of the said *C. D.* contained in his said plea, but admits the same to be true, he the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings, to be adjudged to him ; to be levied, not on the person of the said *C. D.* but on his lands, goods and chattels, according to the form of the statute in such case made and provided : Whereupon it is considered by the court here, that the said *A. B.* ought to recover his damages on occasion of the not performing of the said several promises and undertakings, against the said *C. D.* to be levied in form aforesaid : But because it is unknown, &c. (*award of inquiry and return, as directed in p. 188, 9. ; final judgment as follows :*) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ; which said damages, costs and charges, in the whole amount to —*l.* to be levied, not on the person of the said *C. D.* but on his lands, goods and chattels, according to the form of the statute in such case made and provided ; and the said *C. D.* in mercy, &c.

Mercy.

(§ 14.)

The like,
against the
lands and chat-
tels of a defend-
ant discharged
under an insol-
vent act.

Prac. 683.

(*To the end of the issue, and then as follows :*) At which day, before our said lord the king at *Westminster*, come, (*or, in the Common Pleas and Exchequer*, “ At which day come here,”) as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid : And hereupon the said *C. D.* by his said attorney, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* did undertake, &c. (*as before, p. 186.*)

Judgment
signed, &c.
(186.)

Mercy.

(§ 15.)

Judgment by
cognovit actionem in *assumpsit*, after issue,
relictâ verificatione.

Prac. 560.

As yet of — term, &c. (185.)

Ellenborough.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* of a plea of *debt*.

(§ 16.)

The like, in *debt* on bond, before plea, of the same term with the declaration, in *K. B.*

Prac. 560.

CHAP.
XXII.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, &c. (*memorandum as before, p. 186. describing the action as a plea of debt ; and, after copying the declaration, proceed on a new line as follows :*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *C. D.* nor but that he owes to the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above thereof complained against him : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent : and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

(§ 17.)
The like, in
C. P.

Prac. 560.

— (to wit.) *C. D.* was summoned to answer *A. B.* &c. (*to the end of the declaration, and then, on a new line, as follows :*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (*as in the last.*)

Pleas, &c. (71.)

(§ 18.)
The like, in the
Exchequer.

Prac. 560.

— (to wit.) *A. B.* a debtor, &c. (165.) comes before the barons of this Exchequer, &c. (*here copy the declaration to the end, adding the pledges, and proceed on a new line as follows :*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c. ; which being read and heard, the said *C. D.* says, that he cannot deny the action, &c. (*as in the last but one, to the judgment, which is as follows :*) Therefore it is considered by the barons here, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (*as in § 16.*)

Judgment
signed, &c.
(186.)

As yet of — term, &c. (185.)

(§ 19.)
The like, as to
part of a dif-
ferent term,
with a remittitur
as to the residue,
in K. B.
Prac. 560. 678.

(*Entry of warrants of attorney, as before, § 16. memorandum as before, p. 186. describing the action as a plea of debt ; and, after copying the declaration, proceed on a new line as follows :*)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid ; and the said *C. D.* defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* does owe to the said *A. B.* the sum of — *l.* parcel of the said sum of — *l.* above demanded : And upon this the said *A. B.* freely here in court remits to the said *C. D.* the sum of — *l.* residue of the said sum of — *l.* above demanded, and all damages by him sustained on occasion of the detention of the said last-men-

CHAP.
XXII.

tioned sum of money, and prays judgment for the said sum of — *l.* parcel, &c. so acknowledged as aforesaid, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the sum of — *l.* parcel, &c. in form aforesaid acknowledged, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of — *l.* residue, &c. and the damages aforesaid, in form aforesaid remitted, &c.

Judgment
signed, &c.
(186.)

Mercy.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alleged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (*or*, administrator) as aforesaid, his said debt, and also — *l.* for his damages which he hath sustained, as well on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (*or*, administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the said — *l.* for the damages aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: and the said *C. D.* in mercy, &c.

(§ 20.)

The like, against
an executor or
administrator, in
K. B. or C. P.
Prac. 560. 931.Judgment
signed, &c.
(186.)

Mercy.

(*To the end of the plea, and then as follows:*) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alleged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not, nor had any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, in manner and form as the said *C. D.* hath above in his said plea in that behalf alleged; prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (*or*, administrator) as aforesaid, his said debt, and also — *l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to

(§ 21.)

Judgment of
assets in futuro,
on a plea of
plene adminis-
travit, in debt.
Prac. 677.Judgment
signed, &c.
(186.)

CHAP.
XXII.

(§ 22.)

The like, of assets acknowledged in part, and for the residue of assets in *futura*, on a plea of *plene administravit præter*, in debt.
Prac. 677.

the said *A. B.* and with his assent ; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

(*To the end of the plea, and then as follows :*) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the writing obligatory aforesaid is the deed of the said *E. F.* nor but that the said *C. D.* detains from the said *A. B.* the said sum of —*l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alleged ; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods and chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of —*l.* as aforesaid ; prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him ; to be levied, as to —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also —*l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; to be levied, as to the said —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

Judgment
signed, &c.
(186.)

(§ 23.)

The like, against three executors, where one pleads *plene administravit præter*, another *plene administravit generally*, and the third lets judgment go by default.
Prac. 677.

And the said *C. D.* and *E. F.* by — their attorney, and the said *G. H.* in his proper person, come and defend the wrong and injury, when, &c. and the said *C. D.* says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him ; because he says, that he the said *C. D.* hath fully administered, &c. (*stating the plea of plene administravit præter :*) And the said *E. F.* says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him ; because he says, that he the said *E. F.* hath fully administered, &c. (*stating the plea of plene administravit generally :*) And the said *G. H.* says nothing in bar or preclusion of the said action of the said *A. B.* by which the said *A. B.* remains therein undefended against the said *G. H.* And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* and *E. F.* respectively, but admits the same to be true, prays judgment, and his debt aforesaid, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* *E. F.* and *G. H.* as executors as aforesaid, his debt aforesaid, and also —*l.* for his damages which he hath sustained on occasion of the

Judgment
signed, &c.
(186.)

detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; to be levied, as to the said sum of —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* as executor as aforesaid to be administered, or of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *E. F.* as executor as aforesaid to be administered, or which are now in, or shall hereafter come to the hands of the said *G. H.* as executor as aforesaid, to be administered: and as to the residue thereof, to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *C. D.* and *E. F.* as executors as aforesaid, or either of them, or which are now in, or shall hereafter come to the hands of the said *G. H.* as executor as aforesaid, to be administered: It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *G. H.* executor as aforesaid, the sum of —*l.* for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *G. H.* as executor as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, to be levied of the proper goods and chattels of the said *G. H.*; and the said *G. H.* in mercy, &c.

Mercy.

(*To the end of the issue, and then as follows :*) At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, “ At which day come here,”) as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid ; and hereupon the said *C. D.* relinquishing his said plea, by him above pleaded, saith that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed, &c. (*as before*, p. 192.)

(§ 24.)
Judgment by
cognovit actionem, in debt,
after issue, *re-
licta verificatio-
ne.*

Prac. 562.

As yet of — term, &c. (185.)

(*Entry of nurrants of attorney, and memorandum, &c. as before*, pp. 185, 6.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and the said *A. B.* prays that the said *C. D.* may answer his said declaration ; whereupon the said attorney of the said *C. D.* says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown, &c. (*awarding the writ of inquiry, as in a judgment by nil dicit, in K. B. for which vide post*, p. 200.)

(§ 25.)
Judgment by
*non sum infor-
matus*, in as-
sumpsit by bill,
of the same
term with the
declaration, in
K. B.

Prac. 562. 930.

(§ 26.)
The like, in
C. P.
Prac. 562. 930.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the same attorney says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises; nor doth he say any thing in bar or preclusion, &c. (*as in the last, awarding the writ of inquiry, as in a judgment by nil dicit, in C. P. for which vide post, p. 201.*)

(§ 27.)
The like, in
debt, in K. B.
Prac. 562. 930.

(*Entry of warrants of attorney, and memorandum, &c. as before, pp. 185, 6.*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the said *A. B.* prays that the said *C. D.* may answer his said declaration: whereupon the said attorney of the said *C. D.* says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.*; whereby the said *A. B.* remains therein undefended against the said *C. D.*: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (*as before, p. 192.*)

Judgment
signed, &c.
(186.)

(§ 28.)
The like, in
C. P.
Prac. 562. 930.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the same attorney says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion, &c. (*as in the last.*)

(§ 29.)
The like, in the
Exchequer.
Prac. 562. 930.

Pleas before the barons, &c. (71.)

— (to wit.) *A. B.* a debtor, &c. (165.) comes before the barons of this Exchequer, &c. (*here copy the declaration to the end, adding the pledges, and proceed on a new line as follows:*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the said *A. B.* prays, that the said *C. D.* may answer him in the premises: And hereupon the attorney of the said *C. D.* is told, that he answer for the said *C. D.* to the said *A. B.* in the plea aforesaid; and the said attorney saith, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the plea aforesaid, and he saith nothing further thereunto; whereby the said *A. B.* remains undefended against the said *C. D.*: Therefore it is considered by the barons here, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (*as before, p. 192.*)

Judgment
signed, &c.
(186.)

(§ 30.)
Affidavit, for
the master in
K. B. or Exche-
quer, or protho-
notary in C. P.
to compute prin-
cipal and in-
terest, on a bill
of exchange.
Prac. 570.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

E. F. of — gentleman, attorney (*or agent*) for the above-named plaintiff, maketh oath and saith, that this action is brought by the plaintiff as payee, (*or indorsee,*) against the defendant, as acceptor of a bill of exchange, dated the — day of — 18—. for the sum of — *l.* drawn by one *G. H.* on the said defendant, and payable — months after date, to the said plaintiff or order; (*or, if by an indorsee, "to J. K. or order,* and by him the said *J. K.* indorsed to the said plaintiff.") And this de-

ponent further saith, that interlocutory judgment was signed in this cause, on the — day of this present month of —, for want of a plea.

Sworn, &c. (175.)

E. F.

CHAP.
XXII.

— on (or next after) —, &c. (175.)

B. } Upon reading the affidavit of E. F. It is ordered, that the defend-
v. } ant, upon notice of this rule to be given to his attorney, shall, upon
D. } — next after —, shew cause, why it should not be referred to
the master, to see what is due for principal and interest on the bill of ex-
change, (or, promissory note, &c.) on which this action is brought, and
also to tax the plaintiff his costs; and why the plaintiff should not be at
liberty to sign final judgment thereon, without executing a writ of inquiry
of damages. Upon the motion of Mr. Wallington. By the Court.

In the Common Pleas, &c. (176.)

B. } Upon reading the affidavit of E. F. It is ordered, that the defend-
v. } ant, upon notice of this rule to be given to him or his attorney, shall
D. } shew cause to this court, on —, why it should not be referred to
one of the prothonotaries of this court, to take an account of the principal
and interest due to the plaintiff, on the bill of exchange, (or, promissory
note, &c.) on which this action is brought, and to tax the plaintiff his
costs of this action, and also his costs of and occasioned by this application
to the court; and why such principal, interest and costs, when ascer-
tained and taxed as aforesaid, should not be awarded to the plaintiff, under
the judgment signed in this cause, as so much money recovered against
the defendant, for the plaintiff's damages and costs in this action, and
the plaintiff be at liberty to sign and enter up final judgment thereon for
the same.

On the motion of Serjt. Blosset, for the plaintiff.

By the Court.

— on (or, next after) —, &c. (185.)

B. } Upon reading the rule made in this cause, on — next after —
v. } in this term, the affidavit of E. F. and no cause being shewn to the
D. } contrary; It is ordered, that it be referred, &c. (as in § 31.)

In the Common Pleas, &c. (176.)

Upon reading the rule made in this cause on — last, the affidavit of
E. F. of the due service of the said rule, and no cause being shewn to
this court to the contrary; It is ordered, that it be referred, &c. (as in §
31. a.)

(For a judge's fiat for the rule in vacation, vide ante, pp. 23. 99.)

As yet of — term, (the term of which interlocutory judg-
ment is signed,) in the — year of the reign of king
George the Fourth. Witness Charles Lord Tenterden.

Ellenborough.

— (to wit.) A. B. puts in his place E. F. his attorney, against
C. D. of a plea of trespass on the case upon promises.

— (to wit.) The said C. D. in person, (or, if he appeared by at-
torney, "The said C. D. puts in his place G. H. his attorney,") at the
suit of the said A. B. in the plea aforesaid.

(§ 31.)

Rule nisi there-
on, in K. B.

Prac. 487.

570.

(§ 31. a.)

The like, in
C. P.

Prac. 487. 570.

(§ 32.)

Rule absolute
thereon, in
K. B.

Prac. 487. 570.

(§ 32. a.)

The like, in
C. P.

Prac. 487. 570.

(§ 33.)

Prac. 570.

(§ 34.)

Judgment by
nisi dicit, in as-
sumpsit, on a
bill or note, of
the same term
with the decla-
ration, where
the damages
are assessed by
the court, in
K. B.

Prac. 562. 568.
570. 930.

CHAP.
XXII.

— (to wit.) Be it remembered, &c. (*as before, p. 186. § 5.; and, after copying the declaration to the end, omitting the pledges, proceed on a new line as follows :*)

And the said *C. D.* in his proper person comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: And hereupon the said *A. B.* freely here in court remits to the said *C. D.* all damages sustained by him the said *A. B.* on occasion of the not performing of the several promises and undertakings in the last — counts of the said declaration mentioned; and he prays judgment, and his damages by him sustained on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to be adjudged to him, &c. And because it is suggested and proved, and manifestly appears to the court here, that the said *A. B.* hath sustained damages on occasion of the not performing of the said last-mentioned promise and undertaking, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the damages, so remitted as aforesaid, &c.

Judgment
signed, &c.
(186.)

Mercy.

(*Entry of warrants of attorney, as in the last; memorandum as before, p. 186. § 6.; and, after copying the declaration to the end, omitting the pledges, proceed on a new line as follows :*)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* by his said attorney, as the said *C. D.* in his proper person; and the said *C. D.* defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the said court of our said lord the king now here, what damages the said *A. B.* hath sustained by reason thereof, the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by reason of the premises, as for his costs and charges by him about his suit in this behalf expended; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord

(§ 35.)

The like, after
an imparlance,
and continu-
ance of the in-
quiry, by *vice-comes non misit
breve*, in *K. B.*
Prac. 562. 568.
570. 930.

the king to him in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the sheriff hath not returned the said writ, nor hath he done any thing thereupon: Therefore, as before, the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire in form aforesaid; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the sheriff hath not returned the said last-mentioned writ, nor hath he done any thing thereupon: And hereupon the said *A. B.* freely here in court remits, &c. (*as in the last.*)

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. and thereupon the said *A. B.* by — his attorney complains; (*here copy the declaration, plea and replication, to the end, and proceed as follows:*) And the said *A. B.* prays that the said *C. D.* may rejoin to the said plea of the said *A. B.* by him above pleaded by way of reply, to so much of the said plea of the said *C. D.* as relates to the said sum of —*l.* therein alleged to be due and owing from the said *A. B.* to the said *C. D.*: And hereupon a day is given to the said *C. D.* here, until — aforesaid, that is to say, for the said *C. D.* to rejoin to the said plea of the said *A. B.* by him above pleaded by way of reply as last aforesaid; the same day is given to the said *A. B.* here, &c. At which day, comes here the said *A. B.* by his said attorney; and the said *C. D.* although solemnly demanded on the fourth day, cometh not, but maketh default, nor hath he rejoined to the said plea of the said *A. B.* by him above pleaded by way of reply as last aforesaid; and the said *C. D.* at the same day, although solemnly demanded in open court, to produce the said record by him above in pleading alleged, cometh not, nor produceth the same, but therein wholly fails and makes default: wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: But because it is unknown to the justices here, what damages the said *A. B.* hath sustained, &c. (*as in p. 201. to the end of the award of the inquiry.*) At which day, cometh here the said *A. B.* by his said attorney; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have done any thing thereupon: Therefore, as before, the sheriffs are commanded, that by the oath of twelve good and lawful men of their bailiwick, they diligently inquire in form aforesaid: and that the inquisition which they shall thereupon take, they make appear to the justices here, on —, under their seal, and the seals of those by whose oath they shall take the said last-mentioned inquisition, together with the writ of our said lord the king to them thereupon directed; the same day is given to the said *A. B.* here,

(§ 36.)
The like, in
C. P. for want
of a rejoinder
as to part, and
on a replication
of *nil tiel record*
as to the residue,
where the da-
mages are as-
sessed by the
court.

Prac. 562. 568.
570. 930.

CHAP.
XXII.

&c. At which day, cometh here the said *A. B.* by his said attorney ; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon : And hereupon the said *A. B.* freely here in court remits, &c. (*as before*, p. 198.)

As yet of — term, &c. (197.)

(§ 37.)
Judgment by
nil dicit, in *assumpsit* by bill,
of the same
term with the
declaration,
where damages
are assessed on
a writ of in-
quiry, in *K. B.*
Prac. 562. 568.
930.

(*Entry of warrants of attorney as before*, p. 197. *memorandum as before*, p. 186. § 5. and after copying the declaration to the end, omitting pledges, proceed on a new line as follows :)

And the said *C. D.* in his proper person, (*or*, by *G. H.* his attorney,) comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* ; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* hath sustained by means of the premises ; the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended ; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord the king to him thereupon directed ; the same day is given to the said *A. B.* at the same place : At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid ; and the sheriff, to wit, — Esquire, sheriff of the said county of —, now here returns a certain inquisition indented, taken before him at — in the county aforesaid, on — the — day of — in the — year of the reign of our said lord the now king, by the oath of twelve good and lawful men of his bailiwick ; by which it is found, that the said *A. B.* hath sustained damages, by means of the premises, to —*l.* over and above his costs and charges by him about his suit in this behalf expended, and for those costs and charges to —*s.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

(§ 38.)
The like, of a
different term,
with an imparl-
ance, in *K. B.*
Prac. 562. 568.
930.

(*Entry of warrants of attorney as before*, p. 197 ; *memorandum as before*, p. 186. § 6. ; and, after copying the declaration to the end, omitting pledges, proceed on a new line as follows :)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as

the said *C. D.* in his proper person ; (or “ by *G. H.* his attorney ;”) and the said *C. D.* defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (*as in the last.*)

As yet of — term, (*the term of which the declaration is entitled,*) in the — year, &c. (197.)

— (to wit.) *C. D.* was attached to answer *A. B.* &c. (*here copy the declaration verbatim, and proceed on a new line as follows :*)

And the said *C. D.* in his proper person, or, “ by *G. H.* his attorney,” comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (*as before, p. 200. making the writ of inquiry returnable on a general return day.*)

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. ; and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, &c. (*to the end of the declaration, and then on a new line as follows :*)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (*as before, p. 200. awarding the inquiry as follows :*) But because it is unknown to the justices here, what damages the said *A. B.* hath sustained on occasion thereof, the sheriff is commanded, that by the oath of twelve good and lawful men of his county, he diligently inquire what damages the said *A. B.* hath sustained, as well on occasion of the premises, as for his costs and charges by him about his suit in this behalf expended ; and that the inquisition which he shall thereupon take, he make appear to the justices here, on —, under his seal, and the seals of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed ; the same day is given to the said *A. B.* here, &c. At which day, cometh here the said *A. B.* by his said attorney ; and the sheriff, to wit, —, sheriff of the said county, now here returns, &c. (*as before, p. 200.*)

Pleas before the barons, &c. (71.)

— (to wit.) Be it remembered, that heretofore, that is to say, in — term last past, *A. B.* debtor of his present majesty, came before the barons of this Exchequer at *Westminster*, by *E. F.* his attorney, and brought then here into court, his certain bill against *C. D.* of a plea of trespass on the case upon promises ; the tenor of which said bill follows in these words, to wit : (*here copy the declaration and pledges, and proceed on a new line as follows :*)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c. ; which being read and heard, the said *C. D.* saith, that he is not yet advised to answer the said *A. B.* in the premises, and prayeth leave to imparl thereunto, until — (*the first general return of term,*) next coming, by which day, &c. and it is granted to him by the court ; the same day is given to the said *A. B.* here, &c. At which day, come here as well the said *A. B.* by his attorney aforesaid, as the

(§ 39.)
The like, by
original, in
K. B.
Prac. 562. 568.
930.

(§ 40.)
The like, in
C. P.
Prac. 562. 568.
930.

(§ 41.)
The like, in the
Exchequer,
with continu-
ances by im-
parlance, vice-
comes non misit
breve, and curia
advisari vult.
Prac. 562. 568.
678. 930.

CHAP.
XXII.

Prac. 678.

Prac. 678.

Judgment
signed, &c.
(186.)

Mercy.

said *C. D.* in his proper person; and the said *A. B.* prayeth that the said *C. D.* may answer him in the premises.* And thereupon the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover his damages against the said *C. D.* by reason of the premises: But because it is not known what damages the said *A. B.* hath sustained by reason of the premises, it is commanded to the sheriff of the said county of —, that he diligently inquire, by the oath of honest and lawful men of his bailiwick, what damages the said *A. B.* hath sustained, as well by the not performing of the several promises and undertakings aforesaid, as for his costs and charges by him laid about his suit in this behalf; and the inquisition which the said sheriff shall take thereof, he shall make known to the said barons here, on, &c. (*return of inquiry*,) under his seal, and the seals of those by whose oath he shall make that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *A. B.* here, &c. At which day, came here the said *A. B.* by his attorney aforesaid; and the sheriff did nothing thereupon, nor sent the said writ: Therefore, as before, the sheriff of the said county of — is commanded, that by honest, &c. he diligently inquire in form aforesaid; and make known the inquisition, &c. to the barons here, on —, (*return of inquiry*,) under his seal, and the seals, &c.; the same day is given to the said *A. B.* here, &c. At which day, comes here the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, —, sheriff of the said county, now here returns a certain inquisition indented, taken before him at —, on the — day of — in the — year of the reign of our said lord the king, by the oath of twelve honest and lawful men of his bailiwick; by which it is found, that the said *A. B.* hath sustained damages by reason of the premises, to the sum of —*l.* besides his costs and charges by him laid out about his suit in this behalf, and for his costs and charges aforesaid, the sum of —*l.* And because the barons here will advise themselves of and upon the premises aforesaid, before they give judgment therein, a day is given to the said *A. B.* here, until — (*the next return*,) to hear judgment thereupon, for that the said barons here are not yet advised thereof, &c. At which day, the said *A. B.* comes here, by his attorney aforesaid; whereupon all and singular the premises being seen, and fully understood by the barons here, and they having had mature deliberation thereupon; it is considered by the said barons here, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also —*l.* for his said costs and charges, by the said barons here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.*: and the said *C. D.* in mercy, &c.

* If there be more than one imparlance, say, "And hereupon the said *C. D.* saith, that he is not yet advised to answer the said *A. B.* in the premises, and prayeth further leave to imparl, &c." (as in last page.)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and the said *E. F.* comes not: And hereupon the said *A. B.* gives the court of our lord the king now here (*or, in C. P. "the justices here"*) to understand and be informed, that after the issuing of the original writ in this cause, and after the last continuance of the plea aforesaid, and before this day, to wit, on —, the said *E. F.* died, to wit, at —, and the said *C. D.* there survived him; which the said *C. D.* doth not deny: And the said *C. D.* says nothing in bar or preclusion, &c. (*as before, p. 200.*)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the court of our said lord the king now here, (*or, in C. P. "to the justices here,"*) what damages the said *A. B.* hath sustained, by means of the premises aforesaid; it is commanded to the chancellor of the said county palatine of *Lancaster*, that by the writ of our said lord the king, under the seal of the said county palatine to be duly made, and directed to the sheriff of the said county palatine, he command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended; and that the inquisition which the said sheriff shall thereupon take, he make known to the said chancellor, under his seal and the seals of those by whose oath he shall take that inquisition, together with the names of the persons by whose oath he shall take the same, so that the said chancellor may certify the same to our said lord the king at *Westminster*, on — next after —, (*or, in C. P. "to the justices here, on —,"*) together with the name of the said sheriff, and the writ of our said lord the king to the said chancellor in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes (*or, in C. P. "At which day comes here,"*) the said *A. B.* by his said attorney; and the said chancellor now here certifies a certain inquisition indented, taken before the said sheriff, at — in the said county, on the — day of — in the — year of the reign of our said lord the king, by the oath of twelve good and lawful men of the said sheriff's bailiwick; by which it is found, &c. (*as before, p. 200.*)

(*As before, p. 200. to the end of the sheriff's return on the writ of inquiry, and then as follows:*) And hereupon the said *A. B.* freely here in court remits to the said *C. D.* the sum of — *l.* parcel of the damages costs and charges aforesaid, by the said inquisition in form aforesaid found; and prays judgment for the residue of those damages costs and charges, together with his further costs and charges, by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the sum of — *l.* residue of the damages

(§ 42.)

The like, where one of the defendants died after declaration, and before interlocutory judgment, in K. B. or C. P. *Prac. 562. 568. 725.*

(§ 43.)

The like, and award of inquiry into a county palatine. *Prac. 562. 568.*

(§ 44.)

The like, with a remittitur of part of the damages, at the return of the inquiry. *Prac. 562. 568.*

Judgment signed, &c. (196.)

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XXII.

Mercy.

costs and charges aforesaid, by the said inquisition above found, and also —*l.* for his further costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said residue of the damages costs and charges, by the said inquisition above found, together with the said further costs and charges so adjudged of increase, amount in the whole to —*l.* and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of —*l.* parcel, &c. so remitted by the said *A. B.* as aforesaid, &c.

(§ 45.)
The like, with a suggestion of the death of one of the plaintiffs, at the return of the inquiry.

Prac. 562. 568.
725. 934.

(*To the end of the award of the inquiry, and then as follows:*) At which day, before our said lord the king at *Westminster*, comes (*or, in C. P.* “At which day comes here,”) the said *A. B.* by his attorney aforesaid; and the sheriff, &c. (*as before, p. 200. to the end of the inquisition;*) and the said *E. F.* at the same day, being solemnly demanded comes not: And hereupon the said *A. B.* gives the court of our said lord the king now here, (*or in C. P.* “the justices here,”) to understand and be informed, that since the last continuance of this plea, and before this day, to wit, on —, the said *E. F.* died, to wit, at —, and the said *A. B.* there survived him; and because this is not denied, therefore let no further proceedings be had, at the suit of the said *E. F.*; and upon this the said *A. B.* prays judgment against the said *C. D.* for the damages costs and charges aforesaid: Therefore it is considered, &c. (*as before, p. 200.*)

(§ 46.)
The like, against an executor or administrator.
Prac. 562. 568.
980, 31.

Judgment signed, &c.
(186.)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (*as before, p. 200. to the final judgment, which is as follows:*) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (*or, administrator*) as aforesaid, his damages aforesaid, by the said inquisition above found, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages, costs and charges, in the whole amount to —*l.*; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (*or, administrator*) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then —*l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: and the said *C. D.* in mercy, &c.

Mercy.

(§ 47.)
Writ of inquiry, by bill, in *K. B.*
Prac. 573.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us: For that whereas, &c. (*here recite the declaration,*) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover

against the said *C. D.* his damages on occasion of the premises: But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained by means of the premises aforesaid; therefore we command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended; and that you send to us at *Westminster*, on — next after —, the inquisition which you shall thereupon take, under your seal, and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of — in the — year of our reign.

Ellenborough.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, &c. (*as before* :) And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained, by means of the premises aforesaid; therefore we command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended; and that you send to us at *Westminster*, on — next after —, the inquisition which the said sheriff shall thereupon take, under his seal, and the seals of those by whose oath he shall take that inquisition, together with this writ. Witness, &c. (*as above*.)

(§ 49.)
The like, into
a county pala-
tine, in *K. B.*
Prac. 573.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas *C. D.* was attached (*or*, summoned) to appear in our court before us, to answer *A. B.* of a plea, that whereas, &c. (*to the end of the declaration*.) And such proceedings were thereupon had, &c. (*as in a writ of inquiry by bill, making the writ returnable on a general return, wheresoever, &c.*)

(§ 49.)
Writ of inquiry,
by original, in
K. B.
Prac. 573.

George the Fourth, &c. (14.) To the sheriff of —, greeting: Whereas *C. D.* late of — in your county —, was attached (*or*, summoned) to be in our court before our justices at *Westminster*, to answer *A. B.* in a plea, that whereas, &c. (*to the end of the declaration* :) And it was in such manner proceeded in our said court, that the said *A. B.* ought to recover against the said *C. D.* his damages by occasion of the premises: But because it is unknown to our said court, what damages the said *A. B.* hath sustained, &c. (*as above*;) and the inquisition which you shall thereupon take, make appear to our justices at *Westminster*, in —, under your seal, and the seals of those by whose oath you shall take the said inquisition; and have there the names of those by whose oath you shall take the said inquisition, and this writ. Witness *Sir William Draper*

(§ 50.)
The like, in
C. P.
Prac. 573.

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XXII.

(§ 50. a.)
The like, in *trespass*, after plea of not guilty, and a *nolle prosequi*, as to part, and judgment by *nil dicat* for the residue of the trespasses.

Prac. 573.

Best knight, at Westminster, the — day of —, in the — year of our reign.

(*As in the last, to the end of the recital of the declaration, and then as follows :*) And the said *C. D.* by *G. H.* his attorney, came and defended the wrong and injury, when, &c. ; and as to all the said several supposed trespasses in the said declaration mentioned, except the breaking and entering, (&c.) said that he was not guilty thereof, in manner and form as the said *A. B.* had above thereof complained against him ; and of this he the said *C. D.* put himself upon the country, &c. And as to the said breaking and entering, (&c.) the said *C. D.* said nothing in bar or preclusion of the action of the said *A. B.* in respect of the said last-mentioned trespasses ; whereby the said *A. B.* remained therein undefended against the said *C. D.* : And thereupon the said *A. B.* freely in court said, that he would not further prosecute his suit against the said *C. D.* for the residue of the trespasses in the said declaration mentioned ; and he prayed judgment, and his damages by him sustained on occasion of the said breaking and entering, (&c.) to be adjudged to him : And it was in such manner proceeded in our said court, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the trespasses last aforesaid : But because it is unknown to our said court, what damages the said *A. B.* hath sustained, by means of the trespasses last aforesaid ; therefore we command you, &c. (*as before, p. 205. substituting "trespasses last aforesaid," for "premises last aforesaid :"*) and the inquisition which you shall thereupon take, &c. (*as in last.*)

(§ 51.)
Beginning of writ of inquiry, at the suit of an attorney, in *C. P.*

Prac. 573.

George the Fourth, &c. (14.) To the sheriff of —, greeting : Whereas C. D. was attached, by our writ of privilege, issuing out of our court before our justices at Westminster, to be in the same court, to answer A. B. gentleman, one of the attornies, &c. (as before, p. 118. § 10.) of a plea, for that whereas, &c. (to the end of the declaration ; and then proceed as in common cases, making the writ returnable on a day certain.)

(§ 52.)
The like, against an attorney, in *C. P.*

Prac. 573.

George the Fourth, &c. (14.) To the sheriff of —, greeting : Whereas A. B. by E. F. his attorney came into our court before our justices at Westminster, and exhibited to our said justices, his certain bill against C. D. gentleman, one of the attornies of our court of the bench, present in our said court in his proper person, of a plea, for that whereas, &c. (to the end of the declaration ; and then proceed, as directed in the last.)

(§ 53.)
Writ of inquiry, in the Exchequer.

Prac. 573.

*George the Fourth, &c. (14.) To the sheriff of —, greeting : Whereas A. B. our debtor, in our court before the barons of our Exchequer at Westminster, heretofore, that is to say, in — term last past, (the term of the declaration,) impleaded C. D. in a plea of trespass on the case, (or as the plea is :) For that whereas, &c. (here recite the declaration ;) whereby he was the less able to satisfy us the debts which he owed us at our said Exchequer, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court, between the said parties, in the plea aforesaid, that the said *A. B.* ought to recover his damages against the said *C. D.* by reason of the premises : But because it is unknown, what damages the said *A. B.* hath sustained by means of*

the premises ; therefore we command you, that you diligently inquire, by the oath of honest and lawful men of your bailiwick, what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him laid out about his suit in this behalf ; and the inquisition which you shall thereupon take, make known to the said barons of our said Exchequer at *Westminster*, on — next coming, under your seal, and the seals of those by whose oath you shall take that inquisition ; and have you there the names of those by whose oath you shall take that inquisition, and this writ. Witness Sir *William Alexander* knight, &c. (125.)

Rose.

(\$ 54.)

The like, to a
county palatine.

Prac. 573.

George the Fourth, &c. (14.) To our chancellor of our county palatine of *Lancaster*, (or, in *Cheshire*, “ To our chamberlain of our county-palatine of *Chester*,”) or his deputy there, (or, in *Durham*, “ To the reverend father in God —, by divine permission, lord bishop of *Durham*, or his chancellor there,”) greeting: Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in — term last past, impleaded, &c. (as in the last.) But because it is unknown, what damages the said *A. B.* hath sustained, by means of the premises ; therefore we command you, that by our writ, under the seal of our said county palatine, (or, in *Durham*, “ under the seal of your bishoprick,”) to be duly made, and to the sheriff of the same county palatine directed, you command the said sheriff, that by the oath of honest and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended ; and the inquisition which the said sheriff shall thereupon take, he make known to you, under his seal, and the seals of those by whose oath he shall take that inquisition, so that you may make the same known to the barons of our said Exchequer at *Westminster* aforesaid, on — next coming ; and that the said sheriff have before you, the names of those by whose oath he shall take that inquisition, so that you may have the same names before our said barons, at the day and place aforesaid, together with the said sheriff’s name, and this writ. Witness Sir *William Alexander* knight, &c. (125.)

Rose.

(\$ 55.)

Rule nisi, for
executing an
inquiry before
the chief-justice,
in C. P.

Prac. 487. 576.

B. } Upon reading the affidavit of the plaintiff, It is ordered, that the
v. } defendant, upon notice of this rule to be given to his attorney or
D. } agent, shall shew cause to this court to-morrow peremptorily, before the rising of the court, otherwise this rule shall be then absolute, why the writ of inquiry of damages in this cause, should not be executed before the sheriff of the county of —, at the sitting of *Nisi Prius* to be holden for that county, after this present term, in the presence of the lord chief-justice, or one other of the justices of this court, by a good jury, to be impanelled, returned, and sworn by the said sheriff.

On the motion of Serjeant *E. Lawes*.

By the Court.

In the Common Pleas.

A. B. plaintiff, &c. (185.)

(\$ 56.)

Affidavit of
service of rule.

Prac. 576.

I. K. clerk to *E. F.* of — gentleman, maketh oath and saith, that he this deponent did, about — of the clock of the day of the date here-

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of, leave a true copy of the rule hereunto annexed, at the office of Mr. L. M. who acts as attorney (or, agent) for the above-named defendant, with the clerk of the said Mr. L. M. at —; and did also at the same time leave therewith, an examined copy of the affidavit made by the above plaintiff, on his obtaining the said rule, dated the — day of — 18—. And this deponent further saith, that at the time of the service of such rule, he this deponent shewed unto the said clerk of the said Mr. L. M. the said original rule hereunto annexed.

I. K.

Sworn, &c. (175.)

(§ 57.)
Notice of inquiry, in London.

Prac. 579.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

Take notice, that a writ of inquiry of damages in this cause will be executed on — the — day of — instant, (or, next,) between the hours of eleven of the clock in the forenoon, and one of the clock in the afternoon of the same day, at the Secondaries office, No. 28, Coleman street, London, (and, if the plaintiff mean to attend by counsel, add, "when and where counsel will attend on behalf of the said plaintiff.") Dated the — day of — 18—.

Yours, &c.

E. F. plaintiff's attorney.
(agent, or clerk in court.)

To Mr. C. D. the above-named defendant,
(or, after appearance, "To Mr. G. H.
defendant's attorney," &c.)

(§ 58.)
The like, in Middlesex.

Prac. 579.

If in Middlesex, say, "between the hours of eleven of the clock in the forenoon, and one of the clock in the afternoon of the same day, at the sheriff's office, in Red Lion square, in the county of Middlesex."

(§ 59.)
The like, in the country.

Prac. 579.

If in the country, "at the house of —, commonly called or known by the name or sign of —, in — street, at —, in the county of —."

(§ 60.)
The like, before the chief-justice, or chief-baron.

Prac. 579.

If before the chief-justice, (or, chief-baron,) "at the sittings after this present — term, to be holden at the Guildhall of the city of London," (or, in Middlesex, "at Westminster-hall, in the county of Middlesex.")

(§ 61.)
The like, at the assizes.

Prac. 579.

In the King's Bench, &c. (185.) A. B. plaintiff, &c. (id.)
Take notice, that a writ of inquiry of damages will be executed in this cause, at the next assizes, to be holden at —, in and for the county of —, in the presence of one of his majesty's justices of assize. Dated, &c. (as above.)

(§ 62.)
The like, conditionally, on issue of nul tiel record.

(§ 63.)
Notice of continuance.

Prac. 580.

Take notice, that in case judgment be given for the plaintiff in this cause, a writ of inquiry of damages will be executed, &c. (as in other cases.)

I do hereby continue the notice of executing the writ of inquiry, given you in this cause, to the — day of — next, when the same will be executed, between the hours of — and —, at —. Dated, &c. (as above.)
Yours, &c.

E. F. plaintiff's attorney, (&c.)

To Mr. C. D. the above-named defendant, (&c.)

I do hereby countermand the notice of executing the writ of inquiry given you in this cause. Dated the — day of — 18—.

Your's, &c. (as in § 57).

In the King's Bench, &c. (185.)

B. against D.

Take notice, that the plaintiff (or, defendant) will attend by counsel, on the execution of the writ of inquiry in this cause. Dated, &c. (as in last.)

— to wit. Subpœna to testify, on inquiry, between A. B. plaintiff and C. D. defendant, on the part of the plaintiff, (or, defendant.)

E. F. attorney, (&c.)

— 18—.

(§ 64.)
Notice of countermand.
Prac. 580.

(§ 65.)
Notice of attending by counsel.
Prac. 580.

(§ 66.)
Præcipe for subpœna, on writ of inquiry.
Prac. 580.

(§ 67.)
Subpœna.
Prac. 580.

George the Fourth, &c. (14.) To G. H. &c. (here insert the names of the witnesses,) greeting: We command you, and every of you, that laying aside all and singular businesses and excuses whatsoever, you, and every of you, be and appear in your proper persons, before our sheriff (or, sheriffs) of —, on —, at —, (according to the notice of inquiry,) then and there to testify the truth, according to your knowledge, in a certain cause now depending in our court before us, (or, in the Common Pleas, "before our justices," or, in the Exchequer, "before the barons of our court of Exchequer") at Westminster, between A. B. (or, in the Exchequer, "between A. B. our debtor") plaintiff, and C. D. defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff, (or, defendant,) in which cause a writ of inquiry of damages will then and there be executed; and this you, or any of you, shall in no wise omit, under the penalty of 100*l*. Witness, &c. (147.)

By virtue of a writ of subpœna to you directed, and herewith shewn unto you, you are to be and appear before the sheriff (or sheriffs) of —, on —, at —, (as in the subpœna,) to testify the truth, according to your knowledge, in a certain cause now depending between A. B. (or, in the Exchequer, "between A. B. his majesty's debtor") plaintiff, and C. D. defendant, of a plea of trespass on the case, (or, as the action is,) on the part of the plaintiff, (or, defendant,) in which cause a writ of inquiry of damages will then and there be executed; and this you are not to omit, under the penalty of 100*l*. Dated this — day of — in the — year of the reign of our sovereign lord George the Fourth, &c. (43.) and in the year of our Lord 18—.

By the Court, (or, "Barons.")

E. F. attorney (or, clerk in court) for the plaintiff, (or, defendant.)

(§ 68.)
Subpœna ticket.*
Prac. 580.

— (to wit.) An inquisition indented, taken at the house of —, called or known by the name or sign of —, in the said county of —, on the — day of — in the — year of the reign, &c. (43.) before — sheriff of the county aforesaid, by virtue of a writ of our said lord the king, to the said sheriff directed, and to this inquisition annexed, to inquire of certain matters in the said writ specified, by the oath of E. F. (&c.) honest and lawful men of the said county, who upon their oath say,

(§ 69.)
Inquisition, and return, on writ of inquiry.
Prac. 581.

* Instead of this ticket, it is usual to serve a copy of the subpœna on each of the witnesses.

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that *A. B.* in the said writ named, hath sustained damages to the sum of —*l.* by the means in the said writ mentioned, besides his costs and charges by him about his suit in this behalf laid out, and for his costs and charges aforesaid, the sum of —*l.* In witness whereof, as well I the said sheriff, as the said jurors, have set our seals to this inquisition, the day and year above written.

Return.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of —, sheriff.

B. against *D.*

(§ 70.)

Præcipe for rule
for judgment, in
K. B.
Prac. 483. 581.

Rule for judgment on inquiry.

E. F. plaintiff's attorney, (&c.)

— 18—.

(§ 70. a.)

Form of rule
thereon.

Prac. 483. 581.

B. } Unless something be said in arrest of judgment, on the — day
v. } of — instant, let judgment be entered for the plaintiff.

D. }

By the Court.

(§ 71.)

Judgment, by
nil dicit, in debt
on *mutuatus*, by
bill, of the
same term with
the declaration,
in K. B.

Prac. 562, 568.
930.

As yet of — term, &c. (185.)

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against
C. D. of a plea of debt.

— (to wit.) The said *C. D.* in person, (or, if he appeared by attorney, "The said *C. D.* puts in his place *G. H.* his attorney,") at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king, before the king himself, now here, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king, before the king himself, of a plea of debt; and there are pledges for the prosecution thereof, to wit, *John Doe and Richard Roe*; which said bill follows in these words, that is to say: — (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself, of a plea that he render to the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from him; for that whereas the said *C. D.* on the — day of — in the year of our Lord 18—, at —, had borrowed of the said *A. B.* the said sum of —*l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested: Yet the said *C. D.* (although often requested, &c.) hath not as yet paid the said sum of —*l.* above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of 10*l.* and therefore he brings his suit, &c.

And the said *C. D.* in his proper person, (or, "by *G. H.* his attorney,") comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his

said debt, and also —s. for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent : and the said *C. D.* in mercy, &c.

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XXII.

Mercy.

(§ 72.)

The like, in
debt on bond.

Prac. 562. 568.
930.

(*Entry of warrants of attorney, and memorandum, as in the last ; declaration as follows :*)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself, of a plea that he render to the said *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owes to and unjustly detains from him ; for that whereas the said *C. D.* on the — day of — in the year of our Lord 18—, at —, by his certain writing obligatory, sealed with the seal of the said *C. D.* and now shewn to the court of our said lord the king before the king himself here, the date whereof is the same day and year aforesaid, acknowledged himself to be held and firmly bound unto the said *A. B.* in the said sum of —*l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested : Yet the said *C. D.* (although often requested, &c.) hath not as yet paid the said sum of —*l.* above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse ; to the damage of the said *A. B.* of —*l.* and therefore he brings his suit, &c.

And the said *C. D.* in his proper person, (*or*, “ by *G. H.* his attorney,”) comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (*as in the last.*)

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea, &c. (*to the end of the declaration ; and then, on a new line, as in the last precedent but one.*)

(§ 73.)

The like, in
C. P.

Prac. 562. 568.
930.

Pleas before the barons, &c. (71.)

(§ 74.)

The like, in the
Exchequer.

Prac. 609. 616.
930.

— (to wit.) *A. B.* a debtor, &c. (165.) comes before the barons of this Exchequer, &c. (*here copy the declaration to the end, adding the pledges, and proceed on a new line as follows :*)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c. ; which being read and heard, the said *C. D.* says nothing in bar or preclusion, &c. (*as before, pp. 210, 11.*)

(*Entry of warrants of attorney, and memorandum, as before, p. 210. ; and, after copying the declaration, proceed on a new line as follows :*)

(§ 75.)

The like, in
debt on bond for
performance of
covenants, where
a breach has
assigned in the
declaration, on
stat. 8. & 9 W.
III. c. 11. § 8.
with award of
inquiry and
return, in K. B.
Prac. 562. 568.
585.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* ; wherefore the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages by him sustained on occasion of the detention thereof, &c.* But because

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it is convenient and necessary that judgment hereupon should not be given, until the truth of the aforesaid breach of the said condition of the said writing obligatory, above assigned, shall have been inquired into, and the damages which the said *A. B.* hath sustained thereby, shall have been assessed by a jury of the country in that behalf, according to the form of the statute in such case made and provided; therefore let the giving of the said judgment be in the mean time stayed, &c. And the said *A. B.* having prayed the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable *Charles Lord Tenterden*, his majesty's chief-justice, assigned to hold pleas in the court of our said lord the king, before the king himself, (*or*, "to his majesty's justices assigned to take the assizes in the said county,") to inquire of the truth of the aforesaid breach of the said condition of the said writing obligatory, above assigned, and to assess the damages which the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, the said sheriff is commanded, that he summon twelve good and lawful men of his bailiwick, to appear before the said chief-justice, (*or*, "justices of assize,") on — the — day of —, in the — year of the reign of our said lord the king, at — in the said county, to inquire diligently, on their oath, of the truth of the premises, and to assess the damages which the said *A. B.* hath sustained by reason of the aforesaid breach; and that the said sheriff have on that day, before the said chief-justice, (*or*, "justices of assize,") the writ of our said lord the king to him in that behalf directed: It is likewise commanded to the said chief-justice, (*or*, "justices of assize,") that he (*or*, "they") certify the inquisition before him (*or*, "them") taken, to our said lord the king at *Westminster*, on — next after —, together with the names of those by whose oath such inquisition shall be taken, and that the said chief-justice, (*or*, "justices of assize") also have there then that writ; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice (*or*, "justices of assize") now here returns, (*or*, "return,") a certain inquisition indented, and annexed to the said writ, taken before the said chief-justice, (*or*, "justices of assize,") at — in the county of —, on — the — day of —, in the — year of the reign of our said lord the king, by virtue of the said writ, upon the oath of twelve good and lawful men of the bailiwick of the said sheriff; by which it is found, &c. (*reciting the inquisition*;) and that the said *A. B.* hath sustained damages by occasion of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.* over and above his costs and charges by him about his suit in that behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also *ls.* for his damages which he hath sustained, on occasion of the detention thereof, &c. It is also considered, that the said *A. B.* do recover against the said *C. D.* his costs and charges aforesaid, by the said inquisition above found and also —*l.* for his said costs and charges, by the court of our said

lord the king now here adjudged of increase to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c.

(*As in the last, to the asterisk at the bottom of p. 211. and then as follows:*)

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that the said writing obligatory, whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, &c. (*stating the recital, if any, preceding the condition of the bond,*) it was declared, that if, &c. (*reciting the condition:*) And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, further suggests, and gives the court here to understand and be informed, that, &c. (*suggesting the breach:*) But because it is convenient and necessary that judgment hereupon should not be given, until the truth of the aforesaid breach of the said condition of the said writing obligatory, above suggested, shall have been inquired into, and the damages which the said *A. B.* hath thereby sustained, shall have been assessed by a jury of the country in that behalf, according to the form of the statute in such case made and provided; therefore let the giving of the said judgment be in the mean time stayed, &c. And the said *A. B.* having prayed the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable *Charles Lord Tenterden*, his majesty's chief-justice, &c. (*as in the last,*) to inquire of the truth of the aforesaid breach of the said condition of the said writing obligatory, above suggested, and to assess the damages which the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, the sheriff is commanded, &c. (*as in the last, to the end.*)

(*As in the last, to the end of the recital of the condition, and then as follows:*) And the said *A. B.* further suggests, and gives the court here to understand and be informed, that in and by the said indenture of release, mentioned and referred to in the said condition of the said writing obligatory, the said *C. D.* for the considerations therein mentioned, did grant, &c. (*as in the indenture:*) To have and to hold, &c. (*habendum:*) but subject nevertheless to a certain *proviso*, condition or agreement, for the redemption of the said premises, (being the *proviso* or condition mentioned and referred to in and by the said condition of the said writing obligatory in that behalf,) whereby it was provided, &c. (*reciting the proviso.*) And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, further suggests, and gives the court here to understand and be informed, that the said *C. D.* did not nor would well and truly pay, or cause to be paid, unto the said *A. B.* the said sum of —*l.* and interest, in the said condition of the said writing obligatory mentioned, on the said

Mercy.

(§ 76.)

The like, where a breach was suggested after judgment by default, and before final judgment, on same statute.*

Prac. 562. 568. 585.

(§ 77.)

The like, on a mortgage bond, in K. B.

Prac. 562. 568. 585.

* This and the three following forms have been altered; agreeably to the suggestion of the late Mr. Serjt. Williams, in his very excellent edition of *Saunders*, 1 V. p. 58. (1.)

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— day of — next ensuing the date of the said writing obligatory, or at any time before or afterwards, according to and in full discharge of the *proviso* or condition mentioned and referred to in and by the said condition of the said writing obligatory, and according to the form and effect of the same condition, but wholly refused and neglected so to do, and therein failed and made default; and the said sum of —*l.* together with a certain other sum of money, to wit, the sum of —*l.* of lawful money of *Great Britain*, as and for the interest thereof, is still wholly due and unpaid to the said *A. B.* contrary to the form and effect of the said condition of the said writing obligatory, to wit, at — aforesaid: But because it is convenient, &c. (*as in the last.*)

(§ 78.)
The like, in
C. P.
Prac. 562. 568.
585.

(*To the end of suggestion of breach, and stay of judgment, as before, § 76. and then as follows :*)

And the said *A. B.* having prayed the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable Sir *William Draper Best* knight, his majesty's chief-justice of the Bench here, (*or, "to his majesty's justices assigned to take the assizes in the said county,"*) to inquire of the truth, &c. (212.) therefore, according to the form of the statute, &c. (*id.*) the said sheriff is commanded, &c. (*as before, p. 212. directing the inquisition to be certified to "the justices here," on a general return day ;*) the same day is given to the parties aforesaid here, &c. At which day comes here the said *A. B.* by his attorney aforesaid; and the said chief-justice (*or, "justices of assize"*) now here returns, (*or, "return,"*) &c. (*as before, pp. 212, 13.*)

(§ 79.)
The like, in
debt on annuity
bond, in the
Exchequer;
with entry of
satisfaction.
Prac. 562. 568.
585.

(*To the end of suggestion of breach, and stay of judgment, as before, § 76. and then as follows :*) And the said *A. B.* having prayed the writ of our said lord the king, to be directed to the sheriff of the county of —, and to the right honourable Sir *William Alexander* knight, chief-baron of his majesty's court of Exchequer, (*or, "to his majesty's justices assigned to take the assizes in the said county,"*) to inquire of the truth, &c. (212.) therefore, according to the form of the statute, &c. (*id.*) the said sheriff is commanded, &c. (*as before, p. 212. directing the inquisition to be certified "to his majesty's court, before the barons of his said Exchequer at Westminster, on — the — day of — instant, (or, "next";*) the same day is given to the parties aforesaid, at the same place: At which day, before the barons of his said majesty's Exchequer at Westminster aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said chief-baron (*or, "justices of assize"*) now here returns (*or, "return"*) a certain inquisition indented, taken before him, (*or, "them,"*) at — in the county of — aforesaid, on — the — day of —, in the — year of the reign of our said lord the king, upon the oath of twelve honest and lawful men of the said county; by which it is found, &c. (*reciting the inquisition ;*) and that the said *A. B.* hath sustained damages, by occasion of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended: Therefore it is considered, &c. (*as before pp. 212, 13. to the end of the final judgment, and then*

as follows :) And hereupon the said *A. B.* by his attorney aforesaid, acknowledgeth himself to be satisfied by the said *C. D.* of the damages aforesaid, in form aforesaid assessed, and also his damages by him sustained on occasion of the detention of the said debt : Therefore let the said *C. D.* be acquitted of the several damages aforesaid, and all further proceedings for the recovery thereof be stayed, &c.

George the Fourth, &c. (14.) To the sheriff of —, and to the right honourable *Charles Lord Tenterden*, our chief-justice assigned to hold pleas in our court before us, (or, “to our justices assigned to take the assizes in your county,”) greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us, of a plea that he should render to the said *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owed to and unjustly detained from him ; for that whereas the said *C. D. &c.* (reciting the declaration throughout ;) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained, on occasion of the detention thereof, &c. ; whereof the said *C. D.* is convicted, as appears to us of record : And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breach of the said condition of the said writing obligatory, above assigned, and to assess the damages which he the said *A. B.* hath sustained thereby ; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, that you summon twelve good and lawful men of your bailiwick, to appear before the said right honourable *Charles Lord Tenterden*, our said chief-justice, assigned to hold pleas in our said court before us, (or, “before our said justices of assize,”) on — the — day of — next, at the *Guildhall* of the city of *London*, (or, “at *Westminster-hall* in the county of *Middlesex* ;” or, if at the assizes, “at — in the county of —,”) to inquire diligently on their oath of the truth of the premises, and to assess the damages which the said *A. B.* hath sustained by reason of the aforesaid breach ; and that you have on that day before our said chief-justice, (or, “justices of assize,”) this writ : We likewise command our said chief-justice, (or, “justices of assize,”) that he (or, “they”) certify the inquisition before him (or, “them”) taken, to us at *Westminster*, on — next after —, together with the names of those by whose oath such inquisition shall be taken ; and that he, (or, “they”) also have there then this writ. Witness *Charles Lord Tenterden, &c.* (205.)

George the Fourth, &c. (14.) To the sheriff of —, and to the right honourable *Charles Lord Tenterden*, our chief-justice, &c. (as in the last,) greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us, of a plea of debt on demand, for —*l.* of good and lawful money of *Great Britain*, upon and by vir-

(§ 80.)
Writ of inquiry by bill, in debt on bond for performance of covenants, to assess damages, on statute 8 & 9 W. III. c. 11. § 8. where the breach was assigned in the declaration, in K. B.

Prac. 585.

(§ 81.)
The like, where the breach was not assigned in the declaration, but suggested after judgment by default, in K. B.
Prac. 535.

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tue of a certain writing obligatory, in the penal sum of —*l.* bearing date, &c. (*date of bond,*) and sealed with the seal of the said *C. D.*: And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c.; whereof the said *C. D.* is convicted, as appears to us of record: And thereupon the said *A. B.* according to the form of the statute in such case made and provided, suggested upon the roll whereon the said judgment so recovered against the said *C. D.* as aforesaid is entered, to the effect following, to wit; that the said writing obligatory, whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, &c. (*stating the recital, if any, preceding the condition of the bond,*) it was declared, that if, &c. (*reciting the condition:*) And the said *A. B.* further suggested on the said roll, whereon the said judgment so recovered against the said *C. D.* was and is so entered as aforesaid, that, &c. (*here state the suggestion of breaches, to the prayer of a writ of inquiry, and then proceed as follows:*) as we have received information from the said *A. B.* in our court before us: And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory, above suggested, and to assess the damages which he the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, &c. (*as in the last.*)

George the Fourth, &c. (14.) To the sheriff of —, and to the right honourable Sir *William Draper Best* knight, our chief-justice of the Bench at *Westminster*, (*or, "to our justices assigned to take the assizes in your county,"*) greeting: Whereas *C. D.* was summoned to be in our court before our justices at *Westminster*, to answer *A. B.* of a plea of debt on demand for —*l.* of good and lawful money of *Great Britain*, upon and by virtue of a certain writing obligatory, in the penal sum of —*l.* bearing date, &c. (*date of bond,*) and sealed with the seal of the said *C. D.* And such proceedings were thereupon had, in our said court before our justices at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages by him sustained on occasion of the detaining thereof, &c.; whereof the said *C. D.* is convicted: And thereupon the said *A. B.* according to the form of the statute in such case made and provided, suggested, &c. (*as in the last, to the prayer of the writ of inquiry, and then as follows:*) And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory, above suggested, and to assess the damages which he the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, that you summon twelve good and lawful men of your bailiwick, to appear before the said right honour-

(§ 82.)

The like, in
C. P.

Prac. 585.

able Sir *William Draper Best* knight, our chief-justice of the Bench at *Westminster*, &c. (as in the last but one, requiring the chief-justice, or justices of assize, to certify the inquisition, before him, or them, taken, "to our justices at *Westminster*," on a general return day.)

George the Fourth, &c. (14.) To the sheriff of —, and to the right honourable *Charles Lord Tenterden*, &c. (215.) greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, &c. (215.) of a plea that he should render to him the said *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owed to and unjustly detained from him; for that whereas by certain articles of agreement (or, "a certain indenture,") made on, &c. (reciting the whole of the declaration;) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c.; whereof the said *C. D.* is convicted, as appears to us of record: And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breaches of covenant above assigned, and to assess the damages which he the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, &c. (as before, p. 215. to the end.)

George the Fourth, &c. (14.) To the sheriff of —, and to the right honourable *Charles Lord Tenterden*, &c. (215.) greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, &c. (215.) of a plea of debt on demand for —*l.* upon and by virtue of certain articles of agreement, (or, "a certain indenture,") made on, &c. (date of articles, &c.) between, &c. (parties thereto,) whereby, &c. (reciting so much of the articles or indenture, as is necessary for assigning the breach;) and the said *A. B.* declared in the said plea, that, &c. (reciting the averments previous to the assignment of the breach:) And the said *A. B.* for assigning a breach therein, according to the form of the statute in such case made and provided, said, that, &c. (assignment of breach:) And such proceedings were thereupon had, &c. (as in the last.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

Take notice, that a writ of inquiry will be executed in this cause, at the next assizes to be holden in and for the county of —, to inquire of the truth of the breaches assigned (or, suggested) by the plaintiff, of the condition of the writing obligatory, and to assess the damages which he hath sustained thereby. Dated, &c. (as in p. 96. § 24.)

— (to wit.) An inquisition indented, taken before me the right honourable *Charles Lord Tenterden*, his majesty's chief-justice assigned to hold pleas in the court of the lord the king before the king himself, (or, "before us — and —, his majesty's justices assigned to take the assizes in the county of —,") on — the — day of —, in the

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(§ 83.)
The like, in
debt on articles
of agreement,
in K. B.
Prac. 585.

(§ 84.)
The like, an-
other way.
Prac. 585.

(§ 85.)
Notice of in-
quiry, at the
assizes, on stat.
8 & 9 W. III.
c. 11. § 8.
Prac. 585.

(§ 86.)
Inquisition, and
return, on same
statute.
Prac. 581. 585.

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— year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our lord 18—, at — in the county of —, by virtue of his majesty's writ, directed to the sheriff of the said county, and to me the said chief-justice, (*or*, “to us the said justices of assize,”) and to this inquisition annexed, by the oath of *E. F. &c. (names of jurors,)* twelve good and lawful men of the county aforesaid, who being sworn and charged, upon their oath say, that the breach (*or*, several breaches) of the said condition of the said writing obligatory in the said writ mentioned, is (*or*, are) true; and that the said *A. B.* hath sustained damages, by the aforesaid breach (*or*, breaches) of the said condition, besides his costs and charges by him about his suit in this behalf expended, to —*l.* In witness whereof, I the said chief-justice have hereunto set my hand and seal, (*or*, “we the said justices of assize have hereunto set our hands and seals,”) the day and year, and at the place above-mentioned.

(\$ 87.)

Return.

Prac. 581. 585.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of —, the chief-justice (*or*, “of — and —, the justices of assize”) within-named.

(\$ 88.)

Judgment by
nil dicit as to
one count, and
nolle prosequi to
two others, after
plea, in *debt* on
statute.

Prac. 562. 568.
980.

(*To the end of the plea, and then as follows :*) And as to the offence in the last count of the said declaration mentioned, the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*: And hereupon the said *A. B.* freely here in court says, that he will not further prosecute his suit against the said *C. D.* for the said offences in the said first and second counts of the said declaration mentioned; and he prays judgment for the said sum of —*l.* in the said last count of the said declaration mentioned, parcel of the said sum of —*l.* above demanded, together with his costs and charges by him laid out about his suit in this behalf: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* in the said last count of the said declaration mentioned, parcel, &c. and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said offences in the said first and second counts of the said declaration mentioned, and go thereof without day, &c.

Judgment
signed, &c.
(186.)

Mercy.

(\$ 89.)

Judgment by
nil dicit, and
award of in-
quiry, in *deti-
nue*.

Prac. 562. 980.
81.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* the goods and chattels aforesaid, or the value of the same, if the said *A. B.* cannot have again the said goods and chattels, and also the damages by him the said *A. B.* sustained by reason

of the detention thereof: But because it is unknown to the court of our said lord the king now here, what is the value of the said goods and chattels, and also what damages he the said *A. B.* hath sustained on occasion of the premises; the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what is the value of the said goods and chattels, and also what damages the said *A. B.* hath sustained, as well on occasion of the premises, as for his costs and charges by him about his suit in this behalf expended; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *C. D.* at the same place, &c.

(*To the end of the award of inquiry, and then as follows :*) At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — Esquire, sheriff of the said county of —, now here returns a certain inquisition indented, taken before him, at — in the county aforesaid, on — the — day of —, in the — year of the reign of our said lord the now king, by the oath of twelve good and lawful men of his bailiwick; by which it is found, that the said *A. B.* hath sustained damages, by reason of the premises in the first count in the said writ mentioned, to the sum of —*l.* by reason of the premises in the second count in the said writ mentioned, to the sum of —*l.* by reason of the premises in the third count in the said writ mentioned, to the sum of —*l.* and by reason of the premises in the fourth and fifth counts in the said writ mentioned, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf laid out, and for those costs and charges to —*s.*: And hereupon the said *A. B.* freely here in court remits to the said *C. D.* the sum of —*l.* parcel of the damages aforesaid, being the damages by the said inquisition above found to have been sustained by the said *A. B.* by reason of the premises in the said third count mentioned; and he prays judgment for treble the amount of the said several sums of —*l.* —*l.* and —*l.* being the residue of the damages, by the said inquisition above found to have been sustained by the said *A. B.* by reason of the premises in the said first, second, fourth and fifth counts respectively mentioned, and also for treble the amount of the said sum of —*s.* for the costs and charges aforesaid, and of his further costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the sum of —*l.* being treble the amount of the said several sums of —*l.* —*l.* and —*l.* being the residue of the damages aforesaid, by the said inquisition above found to have been sustained by the said *A. B.* by reason of the premises in the said first, second, fourth and fifth counts respectively mentioned, and also —*l.* being treble the amount of the said sum of —*s.* for his costs and charges aforesaid, and the further sum of —*l.* being treble the amount of his said costs and charges, by

(§ 90.) Judgment by *nil dicit*, in case, for treble damages and costs, on stat. 29 Eliz. c. 4. against the sheriff, for extortion; where several damages were assessed on different counts, with a *remittitur damna* on one of them. *Prac.* 893. 987.

Judgment signed, &c. (186.)

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XXII.

the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; which said several sums of —*l.* —*l.* and —*l.* in the whole amount to —*l.*; and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of —*l.* parcel of the damages aforesaid, so remitted as aforesaid, &c.

(§ 91.)
The like, in
trespass, after a
new assign-
ment.
Prac. 568. 569.

And the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* as to the said trespass, in the said close above newly assigned; whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the court of our said lord the king now here, (or, in *C. P.* “to the justices here,”) what damages the said *A. B.* hath sustained, on occasion of the said trespass, in the said close above newly assigned, the sheriff is commanded, &c. (*as before, p. 200. in K. B. or, p. 201. in C. P.*)

(§ 92.)
Docket papers,
in *K. B.*
Prac. 728. 731.

The entry (or, further entry) of *E. F.* gentleman, one, &c. of the term of —, 9 Geo. IV. 1828.

(*Venue.*) Judgment by confession, between
A. B. plaintiff, and *C. D.* defendant, for —*l.* } *Roll*
debt, and —*s.* costs. —

(*Venue.*) Judgment of *assets in futuro*, be-
tween *A. B.* plaintiff, and *C. D.* executor of } —
I. K. deceased defendant, for —*l.* debt. —

(*Venue.*) Judgment by default in *case*, be-
tween *A. B.* plaintiff, and *C. D.* defendant, } —
for —*l.* damages and costs. —

(*Venue.*) Judgment by *nil dicit*, between
A. B. plaintiff, and *C. D.* defendant, for —*l.* } —
debt, and —*s.* damages. —

(§ 93.)
Entries on
docket roll, in
C. P.

Cognovit actionem, (or Confession,) in *case*, (or *debt.*)

(*Venue.*) *A. B.* plaintiff, } *Roll*
C. D. defendant. } —

Prac. 728, 9.
731.

Non sum informatus, (or Not informed,) in *case*, (or *debt.*)

(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. } —

Nil dicit, (or Says nothing,) in *case*, (or *debt.*)

(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. } —

CHAP. XXIII.

OYER of DEEDS ; and PARTICULARS of DEMAND, and SET OFF.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

B. against D.

(§ 1.)
Demand of oyer,
by the defend-
ant.

Prac. 586.

THE defendant demands oyer and copy of the writing obligatory mentioned in the declaration in this cause, and the condition thereof, (*or*, “ of the deed-poll, indenture, articles of agreement, &c. mentioned in the declaration in this cause.”)

Your's, &c.

To Mr. E. F. plaintiff's attorney,
(agent, or clerk in court.)

G. H. defendant's attorney,
(agent, or clerk in court.)

The plaintiff demands oyer and copy of the deed of release, &c. mentioned in the plea in this cause. Yours, &c. (*as in p.* 96. § 24.)

(§ 2.)
The like, by
the plaintiff.
Prac. 586.

D. } Let the plaintiff's attorney or agent attend me, at my chambers
ats. } in *Serjeants' Inn*, to-morrow, (*or*, on — next,) at — of the

B. } clock in the —, to shew cause, why he should not deliver to the
defendant's attorney or agent, an account in writing of the particulars of
the plaintiff's demand, for which this action is brought ; and why, in the
mean time, all proceedings in this cause should not be stayed. Dated the
— day of — 18—.

(§ 3.)
Summons, for
particulars of
plaintiff's de-
mand, in K. B.
Prac. 596.

D. } Upon hearing the attornies, or agents on both sides, I do order,
ats. } that the plaintiff's attorney or agent shall deliver to the defend-

(§ 4.)
Order there-
upon.
Prac. 597.

B. } ant's attorney or agent, an account in writing of the particulars
of the plaintiff's demand, for which this action is brought ; and that in
the mean time, all further proceedings in this cause be stayed. Dated,
&c. (*as above.*)

In the Exchequer of Pleas.

A. B. plaintiff, &c. (185.)

(§ 5.)
Affidavit, for
obtaining par-
ticulars of
plaintiff's de-
mand, in the
Exchequer.
Prac. 598.

C. D. of —, the defendant above-named, maketh oath and saith, that
he this deponent hath not received any particulars (*or*, “ that he is un-
acquainted, *or* not sufficiently acquainted, with the particulars”) of the
plaintiff's demand, for which this action is brought ; and that it is ne-
cessary for him to have such particulars, in order to his defence in this
action.

C. D.

Sworn, &c. (175.)

If a particular of the plaintiff's demand has been delivered, a copy of
it may be annexed to the affidavit, stating “ that the defendant is unac-
quainted with the particulars of the plaintiff's demand, unless the paper
writing hereto annexed does contain the same.”

(§ 6.)
Particulars of
demand, in ac-
tion on bills of
exchange, with
the money
counts.

Prac. 597.

In the King's Bench, &c. (221.)

A. B. plaintiff, &c. (*id.*)

This action is brought to recover the amount of the several bills of exchange, mentioned in the — counts of the declaration, copies of which are hereunder written; and also for the recovery of the balance due to the plaintiff, on the following account: (*here copy the bills and account; taking care to omit any items which may be objectionable, on the credit side of it.*)

The above are the particulars of the plaintiff's demand in this action.

Your's, &c.

To Mr. G. H.

E. F. plaintiff's attorney, (&c.)

defendant's attorney, (&c.)

— 18—.

(§ 7.)
The like, in
action for use
and occupation.

Prac. 597.

This action is brought to recover the sum of —*l.* remaining due to the plaintiff, at — last, for the use and occupation of a dwelling house, &c. (*describing the premises, and their situation,*) let by the plaintiff to the defendant, in the beginning of the year 18—, at the rent of —*l.* *per annum*, and occupied by the defendant, under that letting, to — last.

(§ 8.)
The like, in
action on a war-
ranty, &c.

Prac. 597.

This action is brought to recover damages, as stated in the — counts of the declaration, arising from the purchase of — cases of powder, sold by the defendant to the plaintiff, in the month of — 18—; which powder the defendant warranted to be genuine unadulterated Peruvian bark, of the best quality, but which afterwards proved to be spurious and adulterated, with little or no real Peruvian bark mixed with it; and therefore — of the said — cases, with the contents thereof, were returned by the plaintiff to the defendant, and the — remaining cases were deposited with E. F. of — on account and for the use of the defendant, of which he had due notice.

The nature of these damages is fully detailed in the declaration; and the plaintiff also seeks to recover back in this action, the sum of —*l.* paid by him to the defendant, on account of the said bark.

(§ 9.)
The like, in
action for mesne
profits.

Prac. 597.

This action is brought to recover the mesne profits of a messuage, &c. (*describing the premises, and their situation,*) from the death of E. F. which happened on or about the — day of — 18—, till the execution of the writ of possession, issued on a judgment in *ejectment*, brought on the demise of the plaintiff, being on or about the — day of — 18—, at the rate of —*l.* *per annum*; and also —*l.* for the costs of obtaining possession of the premises, under the said judgment.

(§ 10.)
Particulars of
set off.

Prac. 598.

The following are the particulars of the defendant's set off in this action. (*Here copy the account, containing the particulars.*)

Your's, &c.

To Mr. E. F.

G. H. defendant's attorney, (&c.)

plaintiff's attorney, (&c.)

— 18—.

CHAP. XXIV.

PROCEEDINGS *for* CHANGING *the* VENUE; *and* CONSOLIDATING ACTIONS.

IN the King's Bench,
(Common Pleas, *or*
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 1.)
Affidavit, to
change the
venue.
Prac. 609.

C. D. of —, the above defendant, maketh oath and saith, that the plaintiff's cause of action, if any, arose in the county of *L.* and not in the county of *M.* (*where the venue is laid,*) or elsewhere out of the said county of *L.*

Sworn, &c. (175.)

C. D.

B. } Upon reading the affidavit of the defendant, and the declaration in
v. } this cause, It is ordered, that the action be laid in the county of *L.*
D. } Upon the motion of *Mr. W. Lloyd.*

By the Court.

(§ 2.)
Rule thereon, in
K. B.
Prac. 484. 609.

— on (or next after) —, &c. (175.)

B. } Upon reading the affidavit of the defendant, and the declaration
v. } in this cause; and the defendant hereby undertaking not to assign
D. } the want of original for error; It is ordered, that the action be laid
in the county palatine of —. Upon the motion of *Mr. W. E. Taunton.*

By the Court.

(§ 3.)
The like, for
changing it to
a county pala-
tine, in action
by *original.*
Prac. 607.

B. } Upon reading the rule made in this cause, on — next after —,
v. } last past, and upon the undertaking of the plaintiff, to give material
D. } evidence of some matter in issue arising in the county of —, (*the*
county where the action was first laid,) it is ordered, that the said rule be
discharged. Upon the motion of *Sir J. Mackintosh.*

By the Court.

(§ 4.)
Rule for bring-
ing back the
venue, in *K. B.*
Prac. 484. 610.

In the Common Pleas, &c. (176.)

B. } Upon reading the affidavit of *C. D.* the defendant, and on inspect-
v. } ing the plaintiff's declaration in this cause, It is ordered, that the
D. } plaintiff, upon notice of this rule to be given to him or his attorney,
shall shew cause to this court, on — next, why this action should not
be laid in the county of —, and why all further proceedings therein, in
the county of —, should not be stayed; (*adding, if in a county pala-*
tine, "the defendant, by his counsel, hereby undertaking, not to assign
for error the want of an original writ.")

On the motion of *Serjeant Copley*, for the defendant. By the Court.

B. } Upon reading a rule made in this cause on — last, and the af-
v. } fidavit of *E. F.* of the due service of the said rule, and no cause
D. } being shewn to this court to the contrary; It is ordered, that this

(§ 5.)
Rule *nisi*, for
changing the
venue, in *C. P.*
Prac. 609. 611.

(§ 6.)
Rule absolute
thereon.
Prac. 609. 611.

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XXIV.

action be laid in the county of — ; and that all further proceedings in the county of — be stayed.

On the motion, &c. (*as in last.*)

(§ 7.)
Rule for dis-
charging same,
on the common
undertaking.
Prac. 487. 611.

B. } Upon reading a rule made in this cause on — last, and on
v. } hearing counsel on both sides ; It is ordered, that the said rule be dis-
D. } charged ; the plaintiff hereby, by his counsel, undertaking to give
material evidence in —, at the trial of this cause.

On the motion of Serjeant *Blosset* for the }
plaintiff, Serjeant *Copley* for the defendant. }

By the Court.

(§ 8.)
Consolidation
rule, in K. B.
Prac. 487. 614.

B. v. D. } Upon reading the rule, &c. (197.) It is ordered, that upon
E. } the submission of the defendants *E. F.* and *G.* to be bound
F. } and concluded, in the actions brought against them, by the fate
G. } of such verdict as shall be found in the action brought against
the defendant *D.* all further proceedings in the actions brought against
the defendants *E. F.* and *G.* be stayed, until this court shall otherwise
order : And if a verdict shall be given, in the action against the defend-
ant *D.* in favour of the plaintiff, to the satisfaction of the lord chief-jus-
tice, or other judge before whom the said cause shall be tried, that then
no writ of error shall be brought, upon the judgment to be entered on the
said verdict, nor shall any bill in equity be filed, to be relieved against
such verdict.

By the Court.

(§ 9.)
Judge's order
for consolida-
tion, in C. P.
Prac. 615.

B. v. D. } Upon hearing the attornies or agents on both sides, and upon
E. } the defendants, in the — last-mentioned causes, undertaking
F. } to be bound and concluded, by such verdict as shall be found
G. } on the trial of the first-mentioned cause ; I do order that all
further proceedings in the said — last-mentioned causes be stayed,
until after the trial of the said first-mentioned cause.

CHAP. XXV.

RULES *for* BRINGING MONEY *into* COURT.

— on (*or*, next after) —, &c. (175.)

B. } IT is ordered, that the defendant have leave to bring into court,
v. } — *l.* ; and thereupon, unless the plaintiff shall accept thereof, with
D. } costs to be taxed by the master, in full discharge of this suit, the
said — *l.* shall be struck out of the declaration, and paid out of court
to the plaintiff or his attorney ; and upon the trial of the issue, the plain-
tiff shall not be permitted to give evidence for the said — *l.* Upon the
motion of *Mr. T. Cowley*.

By the Court.

(§ 1.)
Rule for bring-
ing money into
court, in K. B.
Prac. 484. 619.

B. } It is ordered, that the defendant have leave to bring into court,
v. } the further sum of — *l.* making together with — *l.* before paid
D. } in, the sum of — *l.* ; and thereupon, &c. (*as above*.)

(§ 1. a.)
Rule for bring-
ing in a further
sum, in K. B.

B. } Upon reading the rule made in this cause on —, (*the rule nisi*),
v. } the affidavit of *E. F.* and no cause being shewn to the contrary ; It
D. } is ordered, that the plaintiff be at liberty to take the sum of — *l.*
part of the sum of — *l.* paid into court, in lieu of bail in this action,
pursuant to the statute in that case made and provided, out of court ; and
unless the plaintiff shall accept thereof, with costs, to be taxed by the
master, in full discharge of this action, that the said sum of — *l.* be
struck out of the declaration ; and upon the trial of the issue, that the
plaintiff be prevented from giving evidence for the said sum of — *l.*
Upon the motion of *Mr. R. M. Casberd*.

By the Court.

(§ 1. b.)
Rule for plain-
tiff's taking out
of court, part
of the sum paid
in, in lieu of
bail, under stat.
7 & 8 Geo. IV.
c. 71. in K. B.
Prac. 244. 619.

In the Common Pleas, &c. (176.)

B. } It is ordered, that the defendant shall pay to the plaintiff, or
v. } his attorney, — *l.* together with costs, to be taxed by one of the
D. } prothonotaries of this court, if the plaintiff will accept thereof in full
discharge of this suit ; and that thereupon all further proceedings in this
action shall be stayed : But if the plaintiff will not accept thereof, in full
discharge of this suit, that then the defendant shall immediately bring
the said — *l.* into this court, and the said — *l.* shall be considered as
struck out of the declaration, and be paid out of court to the plaintiff or
his attorney ; and upon the trial of the issue, the plaintiff shall be per-
mitted to take a verdict for so much only as he shall prove beyond the said
— *l.*

By the Court.

(§ 2.)
Rule for bring-
ing money into
court, in C. P.
Prac. 485. 619.

On the motion of Serjeant *Blossat* for the defendant.

N.B. The defendant ~~must~~ take care to produce this rule at the trial.

(§ 3.)
The like, in the
Exchequer.

Prac. 619. ²⁰

— term, &c. (175.)

A. B. against C. D.

Upon the motion of Mr. *J. Lewis*, of counsel for the defendant, It is ordered, that, the said defendant bring into this court, the sum of —*l.* to be paid to the plaintiff, his attorney or clerk in court; and if the plaintiff will accept thereof, with costs to be taxed, in full discharge of this suit, that then he shall proceed to tax such costs; and the defendant shall also pay to the plaintiff, his attorney or clerk in court, such costs; and thereupon all further proceedings in the action shall be stayed: And if the plaintiff will not accept of such sum, with the costs, in full discharge of this suit, then the plaintiff is to be at liberty to take the said sum of —*l.* out of court, and to proceed in his cause; but in that case he shall suffer a nonsuit at the trial of the said cause, unless his demand shall be found to exceed the said sum of —*l.*; and if his demand shall be found to exceed the said sum of —*l.* then that he shall take his verdict for the excess only.

By the Court.

Rosc.

CHAP. XXVI.*

PLEAS, &c. in ABATEMENT; and JUDGMENTS thereon.

— term, in the — year of the reign of king George the Fourth.

C. D. sued } AND C. D. against whom the said A. B. hath sued out
by the name } his original writ, and declared, (*or, by bill*, “hath exhibited
of E. D. } his said bill,”) by the name of E. D. in his own person,
ats. } comes and says, that he is named and called by the name
A. B. } of C. D. and by that name hath always hitherto been
called and known, to wit, at — : without this, that he the said C. D.
now is, or at the time of suing out the said original writ, (*or* “exhibiting the said bill,”) was, or ever before had been, called or known by the christian name of E. as by the said writ (*or*, “bill”) is above supposed; and this he the said C. D. is ready to verify, wherefore he prays judgment of the said original writ, and of the declaration aforesaid thereon founded, (*or*, “of the said bill,”) and that the same may be quashed, &c.

C. Marsh.

(§ 1.)
Plea in abatement, of misnomer in defendant's christian name.
Prac. 636.

— term, &c. (*as above*.)

C. D. sued } And now at this day, that is to say, on — next after
by the name } —, until which day C. D. against whom the said A. B.
of E. D. } hath exhibited his said bill, by the name of E. D. (*saving*
ats. } and reserving to himself all and all manner of exceptions
A. B. } to the said bill of the said A. B. *or, in the case of a general special imparlance*, “saving and reserving to himself all advantages and exceptions whatsoever,”) had leave to imparl thereto, and then to answer the same, before our said lord the king at Westminster, come as well the said A. B. by E. F. his attorney, as the said C. D. in his proper person; and the said C. D. saith, that he is named, &c. (*as in last*.)

(§ 2.)
The like, of a term subsequent to the declaration, in K. B. by bill.
Prac. 636.

— term, &c. (*as above*.)

C. D. sued } And C. D. against whom the said A. B. hath sued out
by the name } his original writ, and declared, by the name of E. D. in his
of E. D. } proper person comes, and (*saving and reserving to himself*
ats. } all and all manner of exceptions, as well to the said writ,
A. B. } as to the declaration aforesaid, *or, in case of a general special imparlance*, “saving and reserving to himself all advantages and exceptions whatsoever,”) prays leave to imparl to the said declaration here, until —, and it is granted to him, &c.; the same day is given to the said A. B. here, &c. At which day, come here as well the said A. B. by his attorney aforesaid, as the said C. D. in his proper person; and the said C. D. saith, that he is named, &c. (*as in last but one*.)

(§ 3.)
The like, in K. B. by original, or in C. P.
Prac. 636.

(§ 5.)
Affidavit of the
truth thereof.
Prac. 640.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. sued by the name
of *E. D.* . . defendant.

C. D. of —, the defendant in this cause, maketh oath and saith, that the plea hereunto annexed is true, in substance and matter of fact.

Sworn, &c. (175.)

C. D.

(§ 6.)
Replication to
plea in abate-
ment of misno-
mer, that the
defendant was
called and
known as well
by one name as
the other.

Prac. 636. (n.)

B. } And the said *A. B.* saith, that his said original writ, (or "bill,"
v. } by reason of any thing in the said plea above alleged, ought not to be
D. } quashed; because he saith, that the said *C. D.* who now appears to
the said original writ, (or "bill,") is the same person against whom he
the said *A. B.* sued out (or, "exhibited") the same, by the name of
E. D.; and that he the said *C. D.* before and at the time of suing out the
said original writ, (or, "exhibiting the said bill,") was, and from thence
hitherto hath been, and now is, called and known as well by the name of
E. D. as by the said name of *C. D.*; and this he the said *A. B.* prays
may be inquired of by the country, &c.

G. Taylor.

(§ 7.)
*Cassetur billa,
vel breve.*
Prac. 642. 677.
682. 930, 31.

And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* but admits the same to be true, prays judgment, and that the said bill (or, "writ") of him the said *A. B.* may be quashed, to the intent that he the said *A. B.* may exhibit a better bill (or, "sue out a better writ") against the said *C. D.* Therefore it is considered by the court of our said lord the king before the king himself now here, that the said bill (or "writ") of the said *A. B.* be quashed, &c.

(§ 8.)
Docket paper
thereon, in
K. B.
Prac. 930, 31.

The entry (or, further entry) of *E. F.* gentleman, one, &c. of the term of —, 9 Geo. IV. 1828.

(*Venue.*) Entry of *cassetur billa*, (*vel breve*,) between }
A. B. plaintiff, and *C. D.* defendant, on a plea in abate- } *Roll* —,
ment. }

(§ 9.)
Judgment of
respondent ons-
ter, on demurrer
to plea, or re-
joinder, in abate-
ment.
Prac. 641. 746.

(*To the end of the demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here, (or, in *C. P.* "by the justices," or, in the *Exchequer*, "by the barons here") fully understood, and mature deliberation being thereupon had *, it appears to the said court (or, "to the said justices, or barons") here, that the said plea of the said *C. D.* by him above pleaded, (or, on demurrer to a rejoinder, "that the said plea of the said *C. D.* by him above pleaded by way of rejoinder,") and the matters therein contained, are not sufficient in law to quash the said bill (or, "writ") of the said *A. B.* Therefore it is considered, that the said *C. D.* answer further to the said bill, (or, "writ,") and declaration of the said *A. B.*; and thereupon a further day is given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, (or, in the *Common Pleas and Exchequer*, to the parties aforesaid here,

CHAP.
XXVI.

until —,") that is to say, for the said *C. D.* to plead in chief to the said declaration of the said *A. B.* At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said *C. D.* by his said attorney, defends the wrong and injury, when, &c. (*proceeding with the plea in chief, &c.*)

At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; whereupon all and singular the premises being seen, &c. (*as in the last,*) it appears to the said court (or, in *C. P.* "to the justices," or, in the *Exchequer*, "to the barons") here, that the said plea of the said *A. B.* by him above pleaded by way of reply, and the matters therein contained, are sufficient in law to compel the said *C. D.* to answer further to the said bill, (or, "writ,") and declaration of the said *A. B.*: Therefore it is considered, &c. (*as in the last.*)

(*As in § 9. to the asterisk, and then as follows:*)—it appears to the said court (or, "to the said justices, or barons") here, that the said plea of the said *C. D.* by him above pleaded, and the matters therein contained, are sufficient in law to quash the said bill (or, "writ") of the said *A. B.* (or, on demurrer to a replication to a plea in abatement, "that the said plea of the said *A. B.* by him above pleaded by way of reply, and the matters therein contained, are not sufficient in law to maintain the aforesaid bill (or, writ) of the said *A. B.*") Therefore it is considered, that the aforesaid bill (or, "writ") of the said *A. B.* be quashed, &c.*

(§ 10.)
The like, on
demurrer to a
replication in
abatement.
Prac. 641. 746.

(§ 11.)
Judgment for
defendant, on de-
murrer to plea,
or replication, in
abatement.
Prac. 642. 746.

* The defendant in this case is not entitled to costs. 2 Ld. Raym. 992. 1 Salk. 194. S. C.

CHAP. XXVII.

GENERAL ISSUES; *and* NOTICES of SET OFF, *and* INTENTION to dispute BANKRUPTCY, &c.

(§ 1.)
Plea of *non assumpsit*.

Prac. 643.

— term, in the — year of the reign of king George the Fourth.

D. } AND the said C. D. by G. H. his attorney, comes and defends
ats. } the wrong and injury, when, &c. and says, that he did not under-
B. } take or promise, in manner and form as the said A. B. hath above
thereof complained against him; and of this he the said C. D. puts him-
self upon the country, &c.

(§ 2.)
The like, by
guardian.

Prac. 643.

D. } And the said C. D. by G. H. who is admitted by the court (or
ats. } in C. P. by the justices) of our lord the king now here, to defend
B. } for the said C. D. who is an infant within the age of twenty-one
years, as the guardian of the said C. D. comes and defends the wrong
and injury, when, &c. and says that he the said C. D. did not undertake,
&c. (*as in the last.*)

(§ 3.)
Plea of *nil debet*.

Prac. 643.

D. } And the said C. D. by G. H. his attorney, comes and defends
ats. } the wrong and injury, when, &c. and says that he doth not owe to
B. } the said A. B. the said sum of —l. above demanded, or any part
thereof, in manner and form as the said A. B. hath above thereof com-
plained against him; and of this he the said C. D. puts himself upon the
country, &c.

(§ 4.)
The like, in
debt *qui tam*.

Prac. 643.

D. } And the said C. D. by G. H. his attorney, comes and defends the
ats. } wrong and injury, when, &c. and says, that he does not owe to our
B. } said lord the king, (or, to the poor of the parish of — aforesaid,)
and to the said A. B. who sues as aforesaid, or to either of them, the said sum
of —l. above demanded, or any part thereof, in manner and form as the
said A. B. who sues as aforesaid, hath above thereof complained against
him; and of this he the said C. D. puts himself upon the country, &c.

(§ 4. a.)
Plea of *nil debet per legem*, on
a wager of law.

Prac. 643.

And the said C. D. in his proper person, comes and defends the wrong
and injury, when, &c. and says that he does not owe to the said A. B. the
said sum of —l. above demanded, or any part thereof, in manner and
form as the said A. B. hath above thereof complained against him; and
this he is ready to defend against him the said A. B. and his suit, in such
manner as the court of the lord the king here shall consider, &c.

(§ 5.)
Plea of *non est factum*.

Prac. 643.

D. } And the said C. D. by G. H. his attorney, comes and defends
ats. } the wrong and injury, when, &c. and says that the supposed writ-
B. } ing obligatory (or, indenture, &c.) in the said declaration mentioned,
is not his deed; and of this he puts himself upon the country, &c.

D. } And the said C. D. by G. H. his attorney, comes and defends
 ats. } the wrong (or, in trespass, the force) and injury, when, &c. and
 B. } says that he is not guilty of the premises, (in case; or, in tres-
 pass, of the supposed trespass; or, in trespass and assault, of the sup-
 posed trespass and assault,) above laid to his charge, in manner and form
 as the said A. B. hath above thereof complained against him; and of this
 he the said C. D. puts himself upon the country, &c.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

Sir,

Take notice, that the above-named defendant, on the trial of this
 cause, will give in evidence and insist, that the above-named plaintiff,
 before and at the time of the commencement of this suit, was and still is
 indebted to the said defendant, in the sum of —l. of lawful money of
Great Britain, for the work and labour, care and diligence of the said
 defendant, by him the said defendant before that time done performed
 and bestowed for the said plaintiff, and at his request; and for divers
 materials and other necessary things, used and employed in and about
 that work and labour, by the said defendant before that time found and
 provided for the said plaintiff, and at his like request; and for divers
 goods, wares and merchandizes, by the said defendant before that time
 sold and delivered to the said plaintiff, and at his like request; and for
 money by the said defendant before that time lent and advanced to the
 said plaintiff, and at his like request; and for other money by the said
 defendant before that time paid laid out and expended for the said plaintiff,
 and at his like request; and for other money by the said plaintiff before
 that time had and received to and for the use of the said defendant; and
 that the said defendant will set off and allow to the said plaintiff, on the
 trial of the said cause, so much of the said sum of —l. so due and
 owing from the said plaintiff to the said defendant, against any demand
 of the said plaintiff, to be proved on the said trial, as will be sufficient to
 satisfy and discharge such demand, according to the form of the statute
 in such case made and provided. Dated this — day of — 18—.

Your's, &c.

To Mr. E. F.

plaintiff's attorney, (&c.)

G. H. defendant's attorney,

(agent, or clerk in court.)

In the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

A. B. and C. D. suing as assignees, &c.

of E. F. a bankrupt, . . . plaintiffs,

and

G. H. defendant.

Take notice, that the above-named defendant intends to dispute the
 petitioning creditor's debt, trading, and act of bankruptcy of the above-
 named E. F. on the trial of this cause. Dated the — day of —
 18—.

Your's, &c.

L. M. defendant's attorney, (&c.)

To A. B. and C. D. the above-
 named plaintiffs, and Mr. J. K. }
 their attorney, (&c.) }

(§ 6.)

Plea of not
 guilty, in case,
 or trespass.

Prac. 645.

(§ 7.)

Notice of set
 off, for work
 and labour, &c.

Prac. 668.

(§ 8.)

Notice of de-
 fendant's in-
 tention to dis-
 pute petitioning
 creditor's debt,
 &c. on stat. 6
 Geo. IV. c. 16.
 § 90.

Prac. 668, 9.

(§ 8. a.)

The like, more fully.

Prac. 668, 9.

In the King's Bench, &c. (*title as in last.*)

You are hereby required, according to the form of the statute in such case made and provided, to take notice, that the defendant in the above cause intends, at the trial thereof, to resist and dispute the validity of the commission of bankrupt awarded and issued against *E. F.*, in the pleadings in this cause mentioned, and also the trading and act of bankruptcy on which the said commission is supposed to be founded, and the petitioning creditor's supposed debt, in respect whereof the said commission hath been issued; as well as the right and title of the plaintiffs to support this action, as assignees under that commission, against the present defendant: And we do hereby give you notice, that you will be required to prove, on the trial of the said cause, and that the said defendant will then insist upon your proving, the trading of the said *E. F.*, the act of bankruptcy, upon which the said commission is supposed to be founded, the time when it was committed, and the petitioning creditor's debt: And further, that you do produce upon the said trial, the said commission, and all proceedings whatsoever had or taken under the same. Dated, &c. (*as in last.*)

(§ 9.)

The like, in trover.

Prac. 668, 9.

In the King's Bench, &c. (*title as in last but one.*)

I hereby give you notice, that the above-named defendant will, on the trial of this cause, dispute the validity of the commission of bankrupt, under which the above-named plaintiffs claim, and the title of the said plaintiffs, as assignees of the estate and effects which were of the above-named *E. F.* under the same: And you are hereby required to be prepared to prove, on the said trial, the petitioning creditor's debt, trading, and act of bankruptcy, upon which the said commission is intended to be supported. Dated, &c. (*as in last but one.*)

(§ 10.)

Notice of plaintiff's intention to dispute bankruptcy.

Prac. 668, 9.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)

Take notice, that the above-named plaintiff intends, on the trial of this cause, to dispute the petitioning creditor's debt, and the trading, and act of bankruptcy of *E. F.* under the commission of bankrupt mentioned in the pleadings in this cause; (*or, if they are not mentioned in the pleadings, "under a certain commission of bankrupt lately issued against the said E. F. and under which commission the above-named defendants have been chosen assignees."*) Dated the — day of — 18—.

Your's, &c.

To *C. D.* and *G. H.* the above-named defendants, and to Mr. *I. M.* their attorney.

I. K. plaintiff's attorney,
(*or, agent.*)

(§ 11.)

Rule to plead several matters, in K. B.

Prac. 484. 657.

B. } It is ordered, that the defendant have leave to plead several matters,
v. } to wit, the general issue of *non assumpsit*, the statute of limitations,
D. } and a set off, for work and labour, &c. (*stating the substance of the pleas, shortly.*) Upon the motion of Mr. *J. Clarke.* By the Court.

B. } It is ordered, that the plaintiff, upon notice of this rule, to be
v. } given to him or his attorney, shall shew cause to this court, on ——— (§ 12.)
D. } next, why the defendant should not have leave to plead several The like, *nisi*, in
 matters in this cause, to wit, first, the general issue, &c. (*as in last.*) C. P.
Prac. 488. 657.

On the motion of Serjeant *E. Laves*, for the defendant.

By the Court.

In the Common Pleas, &c. (176.)

B. } Upon reading a rule made in this cause, (the rule *nisi*,) on ———, (§ 13.)
v. } and the affidavit of *E. F.* It is ordered, that the defendant have Rule absolute
D. } leave to plead several matters, to wit, &c. (*as in the rule to shew thereon.*
cause.) *Prac.* 658.

On the motion, &c. (*as in last.*)

By the Court.

B. } It is ordered, that the defendant, upon notice of this rule to be (§ 14.)
v. } given to his attorney, shall abide by his plea already pleaded, or Rule to abide by
D. } plead such other plea peremptorily on the morrow, as shall not be plea, in K. B.
 waived; otherwise let judgment be entered for the plaintiff. Upon the *Prac.* 484. 674.
 motion of Mr. *C. Bascome*.

By the Court.

CHAP. XXVIII.

RULE to REPLY, &c.; JUDGMENT of NONPROS, for not REPLYING; DISCONTINUANCE; NOLLE PROSEQUI; and STET PROCESSUS.

- (§ 1.) — next after — is given to the plaintiff to reply.
 Master's rule to reply, and copy thereof to be served, in K. B. *Prac.* 483. 676.
- IN the King's Bench.**
B. } — next after — is given to the plaintiff to reply.
v. }
D. } Entered.
- (§ 1. a.) — next after — is given to the plaintiff to reply; otherwise let a *non pros* be entered.
 Entry of such rule. *By the Court.*
B. }
v. }
D. }
- (§ 2.) In the Common Pleas.
 Rule to reply, &c. in C. P. *Prac.* 483. 676.
B. } Rule to reply, (or, "to plead to new assignment", or, "to re-
v. } join", &c.) *G. H. defendant's attorney,*
D. } (or, agent.)
B. against D.
- (§ 3.) In the Common Pleas.
 Demand of replication, in C. P. *Prac.* 676.
 The defendant demands a replication in this cause, by
 To Mr. *E. F.* Your's, &c.
 plaintiff's attorney, (or, agent.) *G. H. defendant's attorney,*
 (or, agent.)
B. against D.
- (§ 4.) In the King's Bench, &c. (185.)
 Term's notice to reply. *Prac.* 676.
 Take notice, that the defendant intends to proceed, after the end of the ensuing term, by giving a rule to reply in this cause. Dated, &c. (as in last.)
B. against D.
- (§ 5.) As yet of —, term, &c. (185.)
 Judgment of *non pros*, for not replying, in K. B. *Prac.* 676. 930.
 (Entry of warrant of attorney for defendant, as before, pp. 166, 7.)
 — (to wit.) Be it remembered, &c. (as in an issue, to the end of defendant's plea, and then as follows :)
 And upon this, the said *C. D.* prays that the said *A. B.* may reply to the aforesaid plea of him the said *C. D.*; and thereupon a day is given by the court here, to the said *A. B.* before our lord the king at *Westminster*, until — days next after the end of this same term, that is to say, for him the said *A. B.* to reply to the aforesaid plea of the said *C. D.*; the same day is given to the said *C. D.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the said *A. B.* although at that day solemnly called, comes not, nor hath he replied

to the aforesaid plea of the said *C. D.* nor doth he further prosecute his said suit: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill, (or, writ,) but that he and his pledges to prosecute be in mercy, &c. And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

Judgment
signed, &c.
(186.)

Execution.

— (to wit.) *C. D.* was attached (or, summoned) to answer *A. B.* &c. (as in an issue, to the end of defendant's plea, and then as follows:)

(§ 6.)
The like, in
C. P.

Prac. 676. 930.

And the said *A. B.* prays a day to reply to the said plea of the said *C. D.*; and it is granted to him, &c.: And hereupon a day is given to the said *A. B.* before the justices here, until —, for the said *A. B.* to reply, &c.; the same day is given to the said *C. D.* here, &c. At which day comes here the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, cometh not, but maketh default: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* may depart the court here without day, for ever dismissed therefrom: It is also considered, that the said *C. D.* do recover, &c. (as above.)

Judgment
signed, &c.
(186.)

— on (or, next after) —, &c. (175.)

B. } It is ordered, upon payment of costs, to be taxed by the master,
v. } that this action be discontinued.
D. } Side Bar.

(§ 7.)
Rule to discon-
tinue, in K. B.
Prac. 484. 679.

By the Court.

B. } It is ordered, that the plaintiff do and shall pay to the defendant,
v. } or his attorney, costs to be taxed by one of the prothonotaries of this
D. } court; and upon payment thereof, that the plaintiff have leave to
discontinue this action.

(§ 8.)
The like, in
C. P.
Prac. 484. 679.

Afterwards, to wit, on — next after —, in — term, in the — year of the reign of our lord the now king, before our said lord the king at Westminster, came the said *C. D.* by his attorney aforesaid; and the said *A. B.* did not then and there prosecute his said bill against the said *C. D.* with effect, but voluntarily permitted his suit to be discontinued: Therefore it is considered, that the said *A. B.* take nothing by his said bill, but that he and his pledges to prosecute be in mercy, &c. And it is further considered, &c. (as above.)

(§ 9.)
Entry of dis-
continuance,
by bill, in K. B.
Prac. 677. 930.

It is recorded by the court, on —, in — term, in the — year of the reign of our lord the now king, that the plea aforesaid hath not a day of continuance by the same roll, beyond the aforesaid —: Therefore let the plea aforesaid be discontinued, at the request of the said *A. B.* &c.

(§ 10.)
The like, by
original.
Prac. 677. 930.

And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* freely here in court confesses, that he will not further prosecute his suit against the said *C. D.* Therefore it is considered by the court here, that the said *A. B.* take nothing

(§ 11.)
Judgment for
defendant, on a
nolle prosequi.
Prac. 677. 930.

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XXVIII.

by his said bill, (*or, writ,*) but that he and his pledges to prosecute, be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (*as before, p. 235.*)

(§ 12.)
The like, as to
one of several
defendants.
Prac. 677. 930.

And hereupon the said *A. B.* freely here in court says, that he will not further prosecute his suit against the said *C. D.* in the plea aforesaid: Therefore let the said *C. D.* be acquitted of the premises in the said declaration mentioned, and go thereof without day, &c.

(§ 13.)
The like, as to
a particular
count.
Prac. 677. 930.

And hereupon the said *A. B.* freely here in court confesses, that he will not further prosecute his suit against the said *C. D.* in respect of the premises in the — count of the said declaration mentioned: Therefore, as to the premises in that count mentioned, let the said *C. D.* be acquitted, and go thereof without day, &c.

(§ 14.)
Entry of *stet*
processus.
Prac. 682, 3.

(*To the end of the issue, and then as follows:*)

At which day, before our said lord the king at *Westminster*, come (*or, in the Common Pleas and Exchequer*, “At which day come here,”) the parties aforesaid, by their attornies aforesaid: And hereupon it is ordered by the court here, by and with the consent of the said parties, that all further proceedings in this suit be forthwith stayed; and let all further proceedings therein be stayed accordingly, &c.

CHAP. XXIX.

DEMURRERS, and AMENDMENT.

— term, in the — year of the reign of king George the Fourth.

(§ 1.)
General demurrer to a declaration, or replication.
Prac. 694.

D. } AND the said *C. D.* by *G. H.* his attorney, comes and defends
ats. } the wrong and injury, when, &c. and says that the declaration afore-
B. } said, (*or, if it be a demurrer to a replication, it begins as follows:*
“ And the said *C. D.* saith, that the said replication of the said *A. B.* by him above made to the said plea of the said *C. D.*”) and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against him the said *C. D.*: To which said declaration, (*or, replication,*) and the matters therein contained, in manner and form as the same are above stated and set forth, he the said *C. D.* is not under any necessity, nor in any wise bound by the law of the land to answer: And this he the said *C. D.* is ready to verify, wherefore, for want of a sufficient declaration (*or, replication*) in this behalf, he prays judgment, and that the said *A. B.* may be barred from having or maintaining his aforesaid action thereof against him, &c. *G. Moore.*

— term, &c. (*as above.*)

(§ 2.)
Joinder in demurrer thereto.
Prac. 694.

B. } And the said *A. B.* saith, that the said declaration (*or, replica-*
v. } tion of the said *A. B.* by him above made to the said plea of the said
D. } *C. D.*) and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against him the said *C. D.*; and which said declaration (*or, replication,*) and the matters therein contained, he the said *A. B.* is ready to verify and prove, as the court (*or, in C. P.* “the justices”) here shall direct and award; wherefore, inasmuch as the said *C. D.* hath not answered the said declaration, (*or, replication,*) nor hitherto in any manner denied the same, he the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, (*or, in debt,* “his said debt, together with his damages by him sustained on occasion of the detention thereof,”) to be adjudged to him, &c.

But because the court of our lord the king now here, are not yet advised, what judgment to give of and upon the premises, a day is given to the parties aforesaid, before our said lord the king at Westminster, on — next after —, (*or, by original, on — wheresoever, &c.*) to

(§ 3.)
Continuance, by curia advisari vult, in K. B.
Prac. 678. 725.

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XXIX.

(§ 4.)
The like, in
C. P.
Prac. 678. 725.

hear judgment thereon; for that the said court of our said lord the king now here are not yet advised thereof, &c.

And because the justices here will advise themselves, of and upon the premises, before they give their judgment thereon, a day is therefore given to the parties aforesaid here, until —, to hear their judgment thereon; for that the said justices here are not yet advised thereof, &c.

— term, &c. (237.)

(§ 5.)
General demurrer to plea,
or rejoinder.
Prac. 694.

B. } And the said *A. B.* saith, that the said plea (*or*, rejoinder) of the
v. } said *C. D.* and the matters therein contained, in manner and form
D. } as the same are above pleaded and set forth, are not sufficient in law to bar the said *A. B.* from having and maintaining his aforesaid action thereof against him the said *C. D.*: To which said plea, (*or*, rejoinder,) and the matters therein contained, in manner and form as the same are above pleaded and set forth, he the said *A. B.* is not under any necessity, nor in any wise bound by the law of the land to answer: And this he the said *A. B.* is ready to verify; wherefore, for want of a sufficient plea (*or*, rejoinder) in this behalf, he prays judgment, and his damages by him sustained, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, (*or*, *in debt*, "his said debt, together with his damages by him sustained on occasion of the detention thereof,") to be adjudged to him, &c. *J. Hardy.*

— term, &c. (237.)

(§ 6.)
Joinder in demurrer thereto.
Prac. 694.

D. } And the said *C. D.* says, that his said plea, (*or*, rejoinder,) and
ats. } the matters therein contained, in manner and form as the same are
B. } above pleaded and set forth, are sufficient in law to bar the said *A. B.* from having or maintaining his aforesaid action thereof against him the said *C. D.*; and which said plea, (*or*, rejoinder,) and the matters therein contained, he the said *C. D.* is ready to verify and prove, as the court (*or*, *in C. P.* "the justices") here shall direct and award; wherefore, inasmuch as the said *A. B.* hath not answered the said plea, (*or*, rejoinder,) nor hitherto in any manner denied the same, he the said *C. D.* prays judgment, and that the said *A. B.* may be barred from having or maintaining his aforesaid action thereof against him, &c. But because, &c.

(§ 7.)
Master's rule to
join in demurrer,
in K. B.
Prac. 696.

(§ 7. a.)
Copy thereof, to
be served.
Prac. 696.

(§ 7. b.)
Entry of such
rule.
Prac. 696.

— next after — is given to the plaintiff, (*or*, defendant,) to join in demurrer.

In the King's Bench.

B. } — next after — is given to the plaintiff, (*or*, defendant,) to
v. } join in demurrer.

D. } Entered.

B. } — next after — is given to the plaintiff, (*or*, defendant,) to
v. } join in demurrer; otherwise let a *non pros* be entered, (*or*, judgment given for the plaintiff.)
D. } By the Court.

In the Common Pleas.

- B. } Rule for plaintiff (*or*, defendant) to join in demurrer.
 v. } G. H. defendant's (*or*, "E. F. plaintiff's") attorney,
 D. } (or, agent.)

(§ 8.)
Præcipe for
 rule to join in
 demurrer, in
 C. P.
Prac. 483. 696.

In the Common Pleas.

- B. } The defendant (*or*, plaintiff) demands a joinder in demurrer in
 v. } this cause, by
 D. }

(§ 10.)
 Demand of
 joinder, in C. P.
Prac. 483. 696.

Your's, &c.

G. H. defendant's (*or*, "E. F. plain-
 tiff's") attorney (*or* agent.)

To Mr. E. F. plaintiff's (*or*, G. H. de- }
 fendant's) attorney, (*or*, agent.) } — 18—

— on (*or*, next after) —, &c. (175.)

- B. } It is ordered, that the plaintiff have leave to amend his declara-
 v. } tion, &c. (*or*, the defendant to amend his plea, &c.) by inserting
 D. } (*or*, striking out), &c. (*setting out the nature of the amendment*), upon
 payment of costs, to be taxed by the master, (*if so directed*.) Upon the
 motion of Mr. J. Chitty.

(§ 11.)
 Rule to amend,
 in K. B.
Prac. 488. 707.

By the Court.

In the Common Pleas, &c. (176.)

- B. } Upon hearing counsel on both sides, on the matter of the de-
 v. } murrer in law depending between the said parties; It is ordered, that
 D. } the plaintiff have leave to amend his declaration, &c. (*or*, the de-
 fendant his plea, &c.) in this cause; upon payment to the defendant (*or*,
 plaintiff,) or his attorney, of his costs of and occasioned by such amend-
 ment, together with his costs of and occasioned by this application to the
 court, to be taxed by one of the prothonotaries of this court.

(§ 12.)
 The like, after
 argument, in
 C. P.
Prac. 488. 707.

On the motion of Serjeant *Andrews* for the plain- }
 tiff, Serjeant *E. Lawes* for the defendant. } By the Court.

CHAP. XXX.

ISSUES *in FACT*, TRIABLE *by the COUNTRY*; ENTRIES *thereof*; and JUDGMENTS of NON PROS, *for not ENTERING them, &c.*

(§ 1.)
Issue, by bill, of
the same term
with the declara-
tion, in K. B.

Prac. 719.

— term, in the — year of the reign of king George the
Fourth. *Ellenborough.*

— (to wit). **BE** it remembered, that on — next after —, in this same term, (*the first day of the term of which the issue is made up, unless the cause of action accrued after that day, in which case the memorandum is special, stating the bill to have been exhibited on the day mentioned in the title of the declaration,*) before our lord the king at *Westminster*, comes *A. B.* by — his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; (*or, in covenant, of a plea of breach of covenant; in debt, of a plea of debt; in detinue, of a plea of detaining the goods and chattels of the said A. B.; in case, of a plea of trespass on the case; in trespass, of a plea of trespass; or, in assault, or imprisonment, in a plea of trespass and assault, or, of trespass, assault and false imprisonment, &c.*) and there are pledges for the prosecution thereof, to wit, *John Doe*, and *Richard Roe*; which said bill follows in these words, that is to say: — (to wit.) *A. B.* complains of *C. D.* &c. (*here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:*)

Prac. 721.

* And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come, before our lord the king at *Westminster*, on — next after —, (*some return day before the trial; and, if the trial be at the assizes or sittings after term, the last return day of the preceding term,*) by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

If the pleadings are special, they should be copied in their proper order, beginning each with a new line.

— term, (*the term of which issue is joined,*) in the — year of the reign of king George the Fourth.

Ellenborough.

— (to wit.) Be it remembered, that in — term last past, (*the term of which the declaration is entitled; and if the issue be made up more than four terms after the declaration, instead of the words "last past," say "in the — year of the reign of our lord the now king,"*) before our lord the king at *Westminster*, came *A. B.* by — his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; (*or as the plea is;*) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — (to wit.) *A. B.* complains of *C. D.* &c. (*here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:*)

(§ 2.)
The like, of a term subsequent to the declaration, in K. B.
Prac. 719.

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney; and the said *C. D.* defends the wrong and injury, when, &c. and says, &c. (*to the end of the pleadings, beginning each, if special, with a new line:*) Therefore let a jury thereupon come, &c. (*as in § 1.*)

Prac. 678. 720.

The above form is also used, in making up the issue, when the declaration and plea are of the same term, and the issue delivered of a subsequent term, supposing, though contrary to the fact, that the plea was pleaded of the term the issue was made up.

In the King's Bench.

— term, (*the term of which the declaration is entitled,*) in the — year of the reign of king George the Fourth.

— (to wit.) *C. D.* was attached (*or, summoned*) to answer *A. B.* &c. (*as in the declaration, to the end.*)

(§ 3.)
Issue, by original, in K. B.
Prac. 719.

And the said *C. D.* by — his attorney, comes and defends, &c. (*copying the pleadings in order:*) Therefore the sheriff is commanded, that he cause to come before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, &c.

Prac. 722, 3.

In the King's Bench.

— term, in the — year of the reign of king George the Fourth.

— (to wit.) *C. D.* was attached (*or, summoned*) to answer *A. B.* &c. (*as in the declaration, to the end.*)

(§ 4.)
The like, with imparlances.
Prac. 719.

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and prays a day thereupon to imparl to the said declaration of the said *A. B.* and it is granted to him, &c. And upon this

Prac. 678. 722.

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a day is given to the parties aforesaid, before our lord the king, until — wheresoever, &c. that is to say, for the said *C. D.* to imparl to the declaration aforesaid, and then to answer the same: At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the said *C. D.* says, &c. (*to the end of the pleas.*)

Prac. 678. 722.

And the said *A. B.* prays a day to imparl to the said pleas of the said *C. D.* and it is granted to him, &c. And hereupon a day is given to the said *A. B.* before our said lord the king, until — wheresoever, &c. that is to say, for the said *A. B.* to imparl to the said pleas of the said *C. D.* and then to reply to the same; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid: and the said *A. B.* as to the said plea of the said *C. D.* &c. (*to the end of the pleadings:*) Therefore the sheriff is commanded, &c. (*as in the last.*)

In the Common Pleas.

(§ 5.)
The like, in
C. P.

Prac. 723.

— term, in the — year of the reign of king *George* the Fourth.
— (to wit.) *C. D.* was attached (*or*, summoned) to answer *A. B.* &c. (*as in the declaration, to the end, and then on a new line as follows:*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong (*or*, force) and injury, when, &c. (*to the end of the pleadings.*) Therefore the sheriff is commanded, that he cause to come here, on —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

(§ 6, 7.)

Issue in the
Exchequer, of
a term subsequent
to the declaration,
with an imparlance.

Prac. 719. 723.
777.

PLEAS before the Barons, &c. (*as before, p. 71.*)

— (to wit.) Be it remembered, that heretofore, that is to say, in — term last past, *A. B.* debtor of his present majesty, came before the barons of this Exchequer at *Westminster*, by *E. F.* his attorney, and brought then here into court, his certain bill against *C. D.* of a plea of, &c. (240.); the tenor of which said bill follows in these words, to wit: (*Here copy the declaration to the end, adding the pledges, and proceed on a new line as follows:*)

Prac. 678.

And now here at this day, that is to say, on — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by *G. H.* his attorney; and the said *A. B.* prays that the said *C. D.* may answer him in the premises: And upon this, the said *C. D.* defends the wrong and injury, when, &c. and says, &c. (*here copy the pleadings.*) Therefore, &c.

Where the issue is of the same term with the declaration, it merely contains a transcript of the pleadings, after the *placita*, beginning each with a new line, without any *memorandum* or imparlance.

(§ 8.)

Award of venue,
where there are several
issues in fact.

Prac. 721.

Therefore as well to try this issue, as the said other issue (*or*, issues) above joined between the parties aforesaid, let a jury thereupon come, &c. (240; *or*, by original in *K. B.* or *C. P.* "the sheriff is commanded, &c." *as in* 241, 2.)

Therefore as well to try this issue, as the said other issue (*or, issues*) above joined between the said *A. B.* and the said *E. F.* let a jury thereupon come, &c. (240.; *or, by original in K. B. or C. P.* "the sheriff is commanded," &c. *as in* 241, 2.)

(*After the plea of non est factum, and similiter, proceed as follows :*)

And hereupon the said *A. B.* prays that the said writing obligatory in the said declaration mentioned may be enrolled, and the same is accordingly enrolled in these words, to wit: (*here set out the obligatory part of the bond verbatim.*) He also prays that the condition of the said writing obligatory may be enrolled, and the same is accordingly enrolled in these words, to wit: Whereas, &c. (*here set out the condition of the bond, beginning with the recital, if any :*) And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that, &c. (*assigning the breach, and concluding as follows :*) Therefore to try the said issue above joined between the said parties, and in case the said issue shall be found for the said *A. B.* to inquire of the truth of the said breach, in form aforesaid above suggested, and to assess the damages sustained thereby, let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. because as well, &c. the same day is given to the parties aforesaid at the same place; (*or, by original in K. B. or C. P.* "the sheriff is commanded," &c. *as in* 241, 2.)

(*After the plea, or rejoinder, proceed as follows :*) And the said *C. D.* as to the residue of the trespasses in the said declaration mentioned, (*or, "as to the several trespasses above newly assigned,"*) says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* in respect thereof; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by him sustained, on occasion of the said residue of the said trespasses, (*or, "of the said several trespasses above newly assigned:"*) But because it is unknown to the court here, what damages the said *A. B.* hath sustained on occasion thereof; and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let such taxation and the giving of judgment in this behalf be stayed, until the trial of the said issue (*or, issues,*) above joined between the parties aforesaid: And as well to try the said issue, (*or, issues,*) as to inquire what damages the said *A. B.* hath sustained on occasion of the committing of the said residue of the said trespasses, (*or, "of the said several trespasses above newly assigned,"*) let a jury thereupon come, &c. (240.; *or, by original, in K. B. or C. P.* "the sheriff is commanded," &c. *as in* 241, 2.)

(*After copying the plea and issue thereon, if it conclude to the country, proceed as follows :*) And the said *E. F.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* re-

(§ 9.)

The like, where there are several defendants, who plead separately. *Prac.* 721.

(§ 10.)

Issue, and suggestion of breaches, after plea of *non est factum*, on stat. 8 & 9 W. III. c. 11. § 8. with award of *venire, tam ad triandum, quam ad inquirendum.*

Prac. 687.

Prac. 721, 2.

(§ 11.)

Entry, and award of *venire*, where the defendant in trespass lets judgment go by default, as to part of the declaration, or the trespasses newly assigned.

Prac. 722.

(§ 12.)

The like, where there are several defendants, one of whom pleads,

and another
lets judgment
go by default.

Prac. 722.

mains therein undefended against the said *E. F.*; wherefore the said *A. B.* ought to recover against the said *E. F.* his damages by reason of the premises: But because it is unknown to the court here, what damages the said *A. B.* hath sustained by reason thereof; and because it is also at present unknown to the court here, whether the said *C. D.* will be convicted of the premises, upon which the said issue is above joined between the said *A. B.* and the said *C. D.* or not: und because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let such taxation, and the giving of judgment in this behalf against the said *E. F.* be stayed, until the trial or determination of the said issue above joined between the said *A. B.* and the said *C. D.* And as well to try the said issue, above joined between the said *A. B.* and the said *C. D.* as to inquire against the said *E. F.* what damages the said *A. B.* hath sustained in this behalf, let a jury thereupon come, &c. (240; or, *by original, in K. B. or C. P.* "the sheriff is commanded," &c. *as in 241, 2.*)

(§ 13.)

The like, by
original, in
K. B. when the
plea is of a
term subse-
quent to the
declaration.

Prac. 722.

(*After the declaration, then proceed as follows :*)

And the said *C. D.* by ——— his attorney, and the said *E. F.* in his proper person, come and defend the wrong and injury, when, &c. and pray a day thereupon to imparl, &c. (*as before, p. 241.*) At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid, and the said *E. F.* in his proper person; and the said *C. D.* says, that he did not undertake or promise, &c. (230.) And of this he puts himself upon the country; and the said *A. B.* doth the like. And the said *E. F.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *E. F.*; wherefore the said *A. B.* ought to recover against the said *E. F.* his damages by reason of the premises: But because it is unknown, &c. (*as in the last.*)

(§ 14.)

The like, where
there are several
issues, one
triable by the
country, and
another by the
court, on *nul
tiel record*.

Prac. 722.

Therefore as well to try this issue, (*the issue in fact,*) as to inquire what damages the said *A. B.* hath sustained on occasion of the premises, whereupon the said other issue is above joined between the parties aforesaid, to be tried by the record, in case the said last-mentioned issue shall happen to be found for the said *A. B.* let a jury thereupon come, &c. (240.; or, *by original in K. B. or C. P.* "the sheriff is commanded," &c. *as in 241, 2.*)

(§ 15.)

The like, an-
other way.

Prac. 722.

And as well to try the issue above joined to be tried by the country, as to inquire what damages the said *A. B.* hath sustained, on occasion of the premises whereof the said parties have put themselves upon the judgment of the court, by the production or non-production of the record, in case judgment shall be thereupon given for the said *A. B.* let a jury thereupon come, &c. (240.; or, *by original in K. B. or C. P.* "the sheriff is commanded, &c." *as in 241, 2.*)

(§ 16.)

The like, when
there are several
issues, in
fact and in law.

Prac. 722.

(*After the entry of the pleadings, and continuance by curia advisari vult, proceed as follows :*) And because it is unknown to the said court here, whether or not the said *C. D.* will be convicted of the premises, whereof the said parties have put themselves upon the judgment of the court; and

because it is convenient and necessary that there be but one taxation of damages in this suit ; therefore, as well to try the said issues above joined between the said parties, to be tried by the country, as to inquire what damages the said *A. B.* hath sustained, by occasion of the premises whereof the said parties have put themselves upon the judgment of the court, if judgment should happen to be thereupon given for the said *A. B.* let a jury thereupon come, &c. (240. ; *or, by original in K. B. or C. P.* "the sheriff is commanded," &c. *as in* 241, 2.)

Therefore let a jury be made thereof : And because the said issue above joined between the parties aforesaid, ought to be tried by men of the county palatine of *Lancaster*, (*or, Chester*;) that is to say, of the body of the said county, where the writ of our said lord the king doth not run, and not elsewhere ; therefore to try the said issue above joined between the parties aforesaid, let the record of the plaint aforesaid be sent to his majesty's justices of the said county palatine of *Lancaster*, (*or, Chester*;) so that the same justices, by his said majesty's writ of that county to be duly made, and to the sheriff of the same county directed, do command the said sheriff, that he cause twelve free and lawful men of the body of the said county of *Lancaster*, (*or, Chester*;) to come before the said justices, at their next general sessions of assize to be holden for the said county, after the said record shall have been delivered to them, each of whom, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, that then the said justices shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before them, in his said majesty's court there, to our said lord the king (*or in C. P.* to his said majesty's justices) at *Westminster*, at a certain day which the said justices shall appoint to the said parties, to be in the same court there, to hear judgment thereupon.

Therefore let a jury be made thereof : And because the men of the said city of *Chester* and county of the same city ought not, nor have been used, to come out of the same city and county of the same city, to try any issue joined in the same city and county of the same city ; therefore, for trying the issue aforesaid, triable in the said city of *Chester* and county of the same city, let the record of the plaint aforesaid be sent to the chamberlain of our said lord the king of his county palatine of *Chester*, or to his deputy there, so that the said chamberlain or his deputy, by writ of our said lord the king, under the seal of the said county palatine duly to be made out, do cause the record aforesaid to be sent to the mayor of the said city of *Chester* and county of the same city, commanding the said mayor, that for trying the issue aforesaid, the said mayor do command the sheriffs of the said city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall have been delivered to him, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send

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(§ 17.)
Award of multi-
mus, to the
county palatine
of *Lancaster*, or
Chester.

Prac. 723.

(§ 18.)
The like, to
the city of
Chester.

Prac. 723.

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the record of the^{the}plaint aforesaid, together with every thing that shall have been done thereupon before him, to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the same into the court of our said lord the king before the king himself, (*or, in C. P. to his said majesty's justices*) at *Westminster*, at a certain day which the said mayor shall appoint to the said parties, to be in the same court here, to hear judgment thereupon, &c.

(§ 19.)
The like, to the
county palatine
of *Durham*.

Prac. 723.

Therefore let a jury be made thereof: And because the said issue above joined between the parties aforesaid, ought to be tried by men of the county palatine of *Durham*, that is to say, of the body of the said county palatine, where the writ of our said lord the king doth not run, and not elsewhere; therefore, to try the said issue above joined between the parties aforesaid, let the record of the plaint aforesaid be sent in charge to the bishop of *Durham*, that he may further give in charge the said record unto his said majesty's justices within that liberty, so that the same justices may have it at his said majesty's next court of pleas, to be holden at *Durham* within the said county, after the said record shall have been delivered to them, there to cause the verification of the issue aforesaid to be made, as the law shall direct in this behalf; and a day is given then and there to the said parties: And when the verification and issue aforesaid shall have been there made and tried, that then the said bishop shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon, in his said majesty's court there, to our said lord the king, (*or, in C. P. "to his said majesty's justices"*) at *Westminster*, at a certain day which the said justices shall appoint the said parties, to be in the same court there, to hear judgment thereupon.

(§ 21.)
Suggestion of
the death of
one of several
plaintiffs, after
issuing the original writ, and
before declaration.

Prac. 725. 934.

— (to wit.) *C. D.* was attached (*or, summoned*) to answer *A. B.* and *E. F.* of a plea of trespass on the case, &c. (*or, as the plea is*;) and thereupon the said *A. B.* by — his attorney comes, and the said *E. F.* comes not; and the said *A. B.* gives the court here to understand and be informed, that after the suing out of the original writ in this cause, and before the return thereof, and before this day, to wit, on —, the said *E. F.* died, to wit, at —, and the said *A. B.* there survived him; which the said *C. D.* doth not deny, but admits the same to be true: And hereupon the said *A. B.* by his attorney aforesaid, complains, that whereas, &c.

(§ 22.)
The like, of
the defendant's
being knighted.

Prac. 725.

— that since the issuing of the original writ in this cause, and before this day, to wit, on —, at —, the said *C. D.* took upon himself the order of knighthood, and then and there became and was, and from thence hitherto hath been, and still is Sir *C. D.* knight; which the said *A. B.* doth not deny, &c. (*as in the last.*)

(§ 23.)
The like, of the
death of one of
the plaintiffs,
between declaration
and plea, in
C. P. with
imparlances.

Prac. 725. 934.

(*After the declaration, proceed on a new line as follows:*)

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and prays leave to imparl to the said declaration here, until —, and it is granted to him, &c.; the same day is given to the said *A. B.* and *E. F.* here, &c. At which day come here, as well the said *A. B.* and *E. F.* by their attorney aforesaid, as the said *C. D.* by

his attorney aforesaid : And the said *C. D.* prays further leave to imparl to the said declaration here, until —, and it is granted to him, &c. ; the same day is given to the said *A. B.* and *E. F.* here, &c. At which day come here, as well the said *A. B.* by the said — his attorney, as the said *C. D.* by his attorney aforesaid ; and the said *E. F.* comes not : And hereupon the said *A. B.* gives the justices here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on —, at —, the said *E. F.* died, and the said *A. B.* survived him ; which allegation the said *C. D.* doth not deny, but admits the same to be true : Therefore let no further proceedings be had in this cause, at the suit of the said *E. F.* And the said *C. D.* defends the wrong and injury, when, &c. (*here copy the plea, and go on with the proceedings, at the suit of the surviving plaintiff only.*)

And the said *C. D.* and *G. H.* by — their attorney, come and defend the wrong and injury, when, &c. and pray leave to imparl to the said declaration, until — next after —, (*or, by original, until — wheresoever, &c.*) and it is granted to them, &c. ; the same day is given to the said *A. B.* at the same place : At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid ; and the said *G. H.* comes not : And hereupon the said *C. D.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to-wit, on —, at —, the said *G. H.* died, and the said *C. D.* survived him ; which allegation the said *A. B.* doth not deny, but admits the same to be true : Therefore let all further proceedings in this cause against the said *G. H.* be stayed. And the said *C. D.* defends the wrong and injury, when, &c. (*here copy the plea of the surviving defendant, and go on with the proceedings against him only.*)

(*After the end of the defendant's plea, proceed as follows :*) And the said *A. B.* and *E. F.* (*plaintiffs,*) pray a day to imparl to the said plea, and then to reply to the same, and it is granted to them, &c. ; and thereupon a day is given to the parties aforesaid, to come before our said lord the king at *Westminster*, on — next after —, (*or, by original, on — wheresoever, &c.*) that is to say, for the said *A. B.* and *E. F.* to imparl to the said plea, and then to reply to the same, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid ; and the said *E. F.* cometh not : And hereupon the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on —, at —, the said *E. F.* died, and the said *A. B.* survived him ; which allegation the said *C. D.* doth not deny, but admits the same to be true : Therefore let no further proceedings be had in this cause, at the suit of the said *E. F.* And as to the said plea of the said *C. D.* &c. (*here go on with the replication.*)

(§ 24.)
The like, of
the death of
one of the de-
fendants, be-
tween declara-
tion and plea,
in *K. B.*
Prac. 725. 934.

(§ 25.)
The like, of the
death of one of
the plaintiffs,
between plea
and replication.
Prac. 725. 934.

(§ 26.)

The like, of the demise of the king, between declaration and plea, in K. B.

Prac. 724, 5.

(§ 27.)

The like, after issue joined.

Prac. 724, 5.

(§ 28.)

Suggestion, that one of the sheriffs is a party to the suit, and award of *venire* to the other.

Prac. 723.

(§ 29.)

Suggestion, by the *East India* Company, plaintiffs, that one of the sheriffs is interested, as a proprietor of stock, and award of *venire* to the other.

Prac. 723.

(§ 30.)

Suggestion, that the sheriff is a party, and award of *venire* to the coroner.

Prac. 723.

(§ 31.)

Suggestion, that the sheriff is of kin to the

And now at this day, that is to say, on — next after —, in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. (before which day the said late sovereign lord king *George* the Third departed this life,) before our sovereign lord *George* the Fourth, now king of the united kingdom of *Great Britain* and *Ireland*, &c. come as well, &c. (*as before*, p. 241.)

(*After the award of the venire facias, proceed as follows:*) Before which day, the said late sovereign lord king *George* the Third departed this life: And at that day, before our sovereign lord *George* the Fourth, now king of the united kingdom of *Great Britain* and *Ireland*, &c. at *Westminster*, come the parties aforesaid, by their attornies aforesaid, (&c.)

And hereupon the said master and keepers, or wardens and commonalty, of the mystery or art of braziers, say, that *E. F.* Esquire, now one of the sheriffs of the city of *London* aforesaid, is master of the said company of braziers; and for that reason, the said master and keepers, (&c.) pray the writ of our lord the king, to be directed to *G. H.* Esquire, the other sheriff of the said city of *London*, to cause to come before our lord the king at *Westminster*, twelve, &c. to try the said issue (*or*, issues) above joined between the parties aforesaid: And because the said *C. D.* doth not deny the aforesaid allegation of the said master and keepers, (&c.) but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, pp. 241, 2.)

And hereupon the said united company say, that *E. F.* and *G. H.* Esquires are sheriffs of the city of *London*; and that the said *E. F.* one of the said sheriffs, in his own right, is proprietor of and interested in a share and proportion of the principal stock of the said united company, to the value of — *l.* and is a member of the said united company: And this the said united company are ready to verify; and for this cause, the said united company pray a writ to be directed to the said *G. H.* Esquire, the other sheriff of the said city of *London*, to cause to come twelve, &c. to try the said issue (*or*, issues) above joined between the parties aforesaid: And because the said *C. D.* doth not deny the aforesaid allegation of the said united company, but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, pp. 241, 2.)

And because it is suggested to the court of our lord the king now here, (*or*, in *C. P.* to the justices, *or*, in the *Exchequer*, to the barons here,) that the said *A. B.* (*the plaintiff*,) is sheriff of — aforesaid; it is therefore commanded to the coroner of the said county of —, that he cause to come, &c. (*ante*, pp. 241, 2.)

And hereupon the said *A. B.* says, that — now sheriff of the said county of —, is of kin, that is to say, “brother” to the said *C. D.*; and for this cause the said *A. B.* prays a writ of our lord the king of *venire*

facias, to be directed to the coroner of the said county of —: And because the said *C. D.* doth not deny the aforesaid allegation of the said *A. B.* it is granted to him, &c.: Therefore it is commanded to the coroner of the said county of —, that he cause to come, &c. (*ante*, pp. 241, 2.)

And hereupon the said *A. B.* says, that — and —, now sheriffs of the city of *Coventry* and county of the same city, are bailiffs of the city of *Coventry* aforesaid, and therefore parties to the matter aforesaid, above put in issue between him the said *A. B.* and the said *C. D.*; and that —, now coroner of the said city of *Coventry* and county of the same city, is one of the said commonalty of the city of *Coventry* aforesaid, and therefore likewise a party to the said matter, above put in issue between the said *A. B.* and the said *C. D.* as aforesaid; and the said *A. B.* prays a writ of our lord the king, to be directed to two discreet and indifferent persons, residing within the said county of the city of *Coventry* aforesaid, by the court here to be elected, to cause to come twelve free and lawful men of the neighbourhood of *W.* in the said county of the city of *Coventry* aforesaid, to try the issue aforesaid, above joined between the parties aforesaid: And because the said *C. D.* doth not deny the allegation aforesaid, therefore it is commanded to — and —, with the assent of the parties aforesaid, by the court here elected and named, that they cause to come, &c. (*ante*, pp. 241, 2.)

But because it is suggested and proved, and manifestly appears to the court (*or*, in *C. P.* to the justices, *or*, in the *Exchequer*, to the barons) here, that the said issue above joined between the parties aforesaid, cannot be fairly and impartially tried by a jury of the said town and county of the town of —; therefore let a jury of the county of —, being the county next adjoining to the said town and county of the town of —, thereupon come, &c. (240.; *or*, by original, in *K. B.* or *C. P.* “the sheriff is commanded,” &c. *as in* 241, 2.)

And hereupon the said *A. B.* (*or*, *C. D.*) prays the court of our said lord the king before the king himself now here, (*or*, in *C. P.* the justices here,) that the issue above joined between the said parties, may be tried in the county of —, being the county next adjoining to the city (*or*, town and county of the town) of — aforesaid, and not within the same city, (*or*, town and county); and that proper writs of *venire* and *distringas* may be awarded in that behalf, according to the form of the statute in such case made and provided; and it is granted to him, &c. Therefore, for the trial of the said issue above joined between the parties aforesaid, let a jury of the said county of — come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the said parties there, &c. (*or*, by original, in *K. B.* or *C. P.* “the sheriff is commanded,” &c. *as in* 241, 2.)

And because the said issue (*or*, issues) above joined between the parties aforesaid, ought to be tried by men of the next *English* county to

defendant, and award of *venire* to the coroner.

Prac. 723.

(§ 32.)

Suggestion, that the sheriffs and coroner are interested, and award of *venire* to clerics.

Prac. 723.

(§ 33.)

Suggestion, for a trial in an adjoining county.

Prac. 723.

(§ 34.)

The like, on stat. 38 Geo. III. c. 52. § 1. when the venue is laid in a city, or town corporate.

Prac. 723, 4.

(§ 35.)

Award of *venire* to the sheriff of

the next *English* county, when the venue is laid in *Wales*.

Prac. 724, 5.

(§ 36.)

The like, when the venue is laid in *Berwick* upon *Tweed*.

Prac. 724, 5.

the said county of —, and not elsewhere; and because the county of — is the next *English* county to the said county of —; therefore let a jury of the said county of — thereupon come, &c. (240.; or, by original, in *K. B.* or *C. P.* “the sheriff is commanded,” &c. as in 241, 2.)

And because the borough of *Berwick* is a place, where the king's writ of *venire facias* to summon a jury to try the said issue, doth not run; and because the burgesses of the said borough, by reason of their privileges, ought not to be put upon any jury to try the said issue out of the said borough, but the said issue ought to be tried by a jury of the county of *Northumberland*, which is the next adjacent county to the said borough of *Berwick*; which allegations of the said — are not denied by the said —; therefore let a jury of the said county of *Northumberland* thereupon come, &c. (240.; or, by original, in *K. B.* or *C. P.* “the sheriff is commanded,” &c. as in 241, 2.)

Unless the defendant receive this paper book, and return the same, on the — day of —, to be enrolled, let a writ be made; (*if the judgment would be interlocutory*; or, *if final*, “let a rule be entered.”)

Mr. E. F.

I have struck out the rejoinder, and left a demurrer to the plaintiff's replication in the office.

In the Common Pleas.

B. against D.

Take notice, that I do not receive the issue delivered by you in this cause, but consider the same as a replication only. I have therefore struck out the *similiter*, and return you the same, and shall rejoin in due time.

Your's, &c.

G. H. defendant's attorney,
(or, agent.)

— 18—.

(§ 37.)

Rule to return paper book, in *K. B.*

Prac. 483, 725.

(§ 38.)

Notice of having struck out rejoinder, &c. in *K. B.*

Prac. 726.

(§ 39.)

The like, in *C. P.* when the issue is delivered, without giving a rule to rejoin.

Prac. 718, 19, 726.

(§ 40.)

Master's rule, to enter the issue, in *K. B.*

Prac. 483, 727.

(§ 40. a.)

Entry thereof.

B. } — next after — is given to the plaintiff to enter the issue.
v. } Entered.
D. }

B. } — next after — is given to the plaintiff to enter the issue;
v. } otherwise let a *non pros* be entered.
D. }

By the Court.

B. } Unless the plaintiff enter the issue on record, on — next after
v. } —, let the same be entered on the part of the defendant.
D. }

Entered.

In the Common Pleas, the rule is, that “unless the plaintiff within four days next after notice, shall cause the issue joined in — term last, to be entered,” &c.

As yet of — term, &c. (185.)

(Enter the warrants of attorney for both parties, as before, p. 185.; and, after copying the issue, to the end of the award of the *venire facias*, proceed as follows:—)

(§ 43.)

Judgment of *non pros*, for not entering the issue, by bill, in *K. B.*

Prac. 727, 930.

CHAP.
XXX.

At which day, before our said lord the king at *Westminster*, came as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Therefore, as before, let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place: At which day, before our said lord the king at *Westminster*, came the parties aforesaid, by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Whereupon the said *C. D.* prays the court of our said lord the king now here, that the said *A. B.* may enter the said issue above joined between the parties aforesaid: And hereupon the said *A. B.* is ordered by the court of our said lord the king now here, that he enter the said issue, on — next after — in this same term, on the peril attending the neglect thereof; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not, but makes default, nor hath he entered the said issue above joined in the plea aforesaid: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill, (or, writ,) but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (*as before*, p. 235.)

Judgment
signed, &c.
(186.)

— to wit. *C. D.* was attached to answer unto *A. B.* &c. (*here copy the issue, to the end of the award of the venire facias, and proceed as follows:*) At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Whereupon the said *C. D.* prays the justices here, that the said *A. B.* may enter the said issue, above joined between the parties aforesaid, in the plea aforesaid: And hereupon the said *A. B.* is ordered, by a certain rule of the said justices here, that he enter the said issue within *four* days next after notice of that rule, to be given to his attorney or agent in the plea aforesaid: And although notice of the said rule was afterwards, to wit, on the — day of — in this same term, given to the said attorney of and for the said *A. B.* in the plea aforesaid; yet the said *A. B.* did not, within *four* days next after notice of the said rule so given as aforesaid, enter the said issue so joined as aforesaid, but therein failed and made default; nor hath the said *A. B.* at any time hitherto entered the said issue above joined, between the parties aforesaid, in the plea aforesaid: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered by the justices here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence

(§ 44.)
The like, in
C. P.
Prac. 727. 930.

Judgment
signed, &c.
(186.)

Execution.

(§ 45.)
Entry of issue,
by bill, in K. B.
Prac. 734.

in this behalf, by the said justices here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

As yet of — term, (*the term of which issue is joined,*) in the — year of the reign of king George the Fourth. Witness *Charles Lord Tennerden.* *Ellenborough.*

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* of a plea of trespass on the case, (*or, of debt, &c. as the plea is.*)

— to wit. *C. D.* puts in his place *G. H.* his attorney, (*or, if common bail was filed by the plaintiff according to the statute, say: "The said C. D. in person,"*) at the suit of the said *A. B.* in the plea aforesaid.

— to wit. Be it remembered, &c. (*here copy the whole of the issue, to the end of the award of the venire facias; and if the cause be not tried the same term issue is joined, or in the vacation after that term, it is continued from term to term, as follows:*)

(§ 46.)
Continuance of
the venire, by
vicecomes non
misit breve, by
bill, in K. B.
Prac. 678.

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

(§ 47.)
Entry of issue,
by original, in
K. B.
Prac. 734.

(*Enter the warrants of attorney, as by bill; but, instead of a memorandum, go on immediately with the declaration, as follows:*)

— to wit. *C. D.* was attached (*or, summoned*) to answer *A. B.* &c. (*copying the whole of the issue as before; and if the cause be not tried the same term issue is joined, or in the vacation after that term, it should be continued, from term to term, by the following entry:*)

(§ 49.)
Continuance of
venire, by vice-
comes non misit
breve, by original,
in K. B.
Prac. 678.
778, 9.

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, the sheriff is commanded, that he cause to come before our said lord the king, on —, wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

In the Common Pleas.

— term, &c. (240.)

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* late of —, in a plea of trespass on the case, (*or, as the plea is.*)

— (to wit.) *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid; (*or, if the defendant appear in person, or an appearance be entered for him by the plaintiff, his warrant*

(§ 50.)
Entry of war-
rants of attor-
ney, in C. P.
Prac. 95, 6.
784.

of attorney is as follows : " — (to wit.) *C. D.* in person, at the suit of the said *A. B.* in the plea aforesaid.")

In the Common Pleas.

— term, in the — year of the reign of king *George* the Fourth.

CHAP.
XXX.

(§ 51.)

Entry of issue,
in C. P.

Prac. 734.

— to wit. *C. D.* was attached (or, summoned) to answer *A. B.* &c. (copying the whole of the issue, to the end of the award of the *venire facias* ; and if the cause be not tried the same term issue is joined, or in the vacation after that term, it should be continued, from term to term. by the following entry :)

At which day, come here the parties aforesaid, by their attorneys aforesaid ; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon : Therefore, as before, the sheriff is commanded, that he cause to come here, in —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

(§ 52.)

Continuance of
the *venire*, by
vicecomes non
misit breve, in
C. P.

Prac. 678.
778, 9.

Elsewhere, as it appeareth in — term last past, on the — roll, it is thus contained :*

(§ 53.)

Entry of issue,
of a subsequent
term, against
an attorney, in
C. P.

Prac. 720, 21.

— (to wit.) Be it remembered, that on the — day of — in this same term, *A. B.* came here into court, by *E. F.* his attorney, and exhibited to the justices of our lord the king of the Bench here, his certain bill against *C. D.* gentleman, one of the attorneys of the court of our said lord the king of the Bench here, being present here in court in his proper person ; the tenor of which said bill follows in these words, that is to say : To the justices of our lord the king of the Bench. — (to wit.) *A. B.* complains of *C. D.* &c. (here copy the bill verbatim, adding pledges, and proceed, on a new line, as follows :)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays leave to imparl to the bill aforesaid here, until — next after — in this same term ; and he hath it, &c. ; the same day is given to the said *A. B.* here, &c. At which day come here, as well the said *A. B.* by his said attorney, as the said *C. D.* in his proper person ; and the said *A. B.* prays that the said *C. D.* may answer his said bill, &c. and the said *C. D.* as before, defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him ; and of this he puts himself upon the country ; and the said *A. B.* doth the like. Therefore the sheriff is commanded, that he cause to come here, on — next after —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

(After the award of the *venire facias*, or continuance by *vicecomes non misit breve*, proceed as follows :)

(§ 54.)

Suggestion of
the death of
one of several
plaintiffs or de-
fendants, after
issue joined,
and before trial.

Prac. 678. 934.

* This mode of entry, in the Common Pleas, is only used when the proceedings are by bill, against a member of the House of Commons, or attorney, &c. ; or, by *original*, when an original writ is actually sued out, and the issue is entered of a term subsequent to the bill, or declaration.

CHAP.
XXX.

Before which day, to wit, on —, the said *E. F.* (or, *G. H.*) died, to wit, at —, and the said *A. B.* (or *C. D.*) there survived him: And now at this day, before our said lord the king at *Westminster*, (or, in *C. P.* before the justices, or, in the *Exchequer*, before the barons here,) come as well the said — as the said — (*the survivors*,) by their respective attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, let a jury thereupon come, &c. (240.; or, by original in *K. B.* or *C. P.* “the sheriff is commanded,” &c. as in 241, 2.)

(§ 55.)
Docket papers,
in *K. B.*
Prac. 728, 731.

The entry, (or, further entry) of *E. F.* gentleman, one, &c. of the term of —, 9 Geo. IV. 1828.

(*Venue.*) Issue joined in *case*, between *A. B.* }
plaintiff, and *C. D.* defendant, on a } *Roll*
plea of *non assumpsit*, (or, as the case }
may be.) } —

(*Venue.*) Issue joined in *debt*, between *A. B.* }
plaintiff, and *C. D.* defendant, on a } —
plea of *nil debet*, (or, *non est factum*.) }

(*Venue.*) Issue joined in *trespass*, between }
A. B. plaintiff, and *C. D.* defendant, } —
on a plea of not guilty, (or, as the }
case may be.) }

(*Venue.*) Issue of *nul tiel record* in *case*, (or, }
debt,) between *A. B.* plaintiff, and } —
C. D. defendant. }

(*Venue.*) Entry of demurrer book, in a plea of }
trespass on the case, between *A. B.* } —
plaintiff, and *C. D.* defendant. }

(§ 56.)
Entries on
docket roll, in
C. P.

Non assumpsit, (or, Did not undertake,) in *case*.
(*Venue.*) *A. B.* plaintiff, } *Roll*
C. D. defendant. } —

Prac. 728, 9,
731.

Nil debet, (or, Doth not owe,) in *debt*.
(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. }

Non est factum, in *debt*.
(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. }

Nul tiel record, (or, No such record,) in *case*, (or, *debt*.)
(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. }

Not guilty, in *trespass*, (or *case*.)
(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. }

Special issue, in *case*, (or *debt*, &c.)
(*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. }

— term, in the — year of the reign of king *George* the Fourth.
 — (to wit.) Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by — his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the Marshalsea of our said lord the king before the king himself, of a plea of trespass on the case; and there are pledges for the prosecution, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself; for that whereas heretofore, to wit, on —, at —, a certain discourse was had and moved by and between the said *A. B.* and the said *C. D.*; and in that discourse a certain question then and there arose, whether the said *C. D.* did on the — day of — 18—, or at any other time, receive for the use or on account of *E. F.* deceased, the sum of —*l.* or any other and what sum of money; and thereupon, heretofore, to wit, on the said —, at — aforesaid, in consideration that the said *A. B.* at the special instance and request of the said *C. D.* had then and there paid to him the said *C. D.* the sum of five pounds of lawful money of *Great Britain*, he the said *C. D.* undertook and then and there faithfully promised the said *A. B.* to pay him the sum of ten pounds, of like lawful money, in case he the said *C. D.* did on the said —, or at any other time, receive for the use or on account of the said *E. F.* the said sum of —*l.* or any other sum of money whatsoever: And the said *A. B.* in fact saith, that the said *C. D.* did on the said —, receive for the use and on the account of the said *E. F.* the said sum of —*l.* to wit, at — aforesaid; whereof the said *C. D.* afterwards, to wit, on the same day and year first above-mentioned, there had notice: Nevertheless the said *C. D.* not regarding his said promise and undertaking, so by him made in manner and form aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud the said *A. B.* in this behalf, hath not as yet paid the said sum of ten pounds, or any part thereof, to the said *A. B.* (although often requested so to do;) but he to do this hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of —*l.* and therefore he brings his suit, &c.

(§ 57.)
 Feigned issue,
 on a question
 respecting the
 receipt of mo-
 ney, in K. B.
Prac. 717.

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says, that though true it is, that such a discourse was had and moved by and between the said *A. B.* and the said *C. D.* and that such question did arise, and he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above in his said declaration in that behalf alleged: For plea in this behalf, the said *C. D.* saith, that he the said *C. D.* did not, on the said —, or at any other time, receive for the use or on the account of the said *E. F.* the said sum of —*l.* or any other sum of money whatsoever, in manner and form as the said *A. B.* hath above in his

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said declaration in that behalf alleged ; and of this he the said *C. D.* puts himself upon the country ; and the said *A. B.* doth the like : Therefore, let a jury thereupon come, before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; the same day is given to the parties aforesaid, at the same place.

In the Common Pleas.

(§ 57. a.)
The like, in
C. P.

— term, &c. (240.)

Prac. 717.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. : and thereupon the said *A. B.* by *E. F.* his attorney complains ; that whereas, &c. (*as in the last, to the award of the venire facias, which is as follows :*) Therefore the sheriff is commanded, that he cause to come here, on —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

(§ 58.)
Issue on wager
of law, and
judgment there-
on, for the de-
fendant.

Prac. 649.

(*To the end of the plea, ante, 230. and then as follows :*) Therefore it is considered, that the said *C. D.* do wage to him thereof his law, by himself with —* compurgators ; and let him come, with his law, before the lord the king at *Westminster*, on — next after —, (*or, in C. P. “before the justices here, on — next coming :”*) Pledges to prosecute his law, *John Doe and Richard Roe* : And it is told to the aforesaid attorney of the said *C. D.* that he have before the said lord* the king at *Westminster*, (*or, in C. P. “before the justices here,”*) at that day, the said *C. D.* his client, in his proper person, to perfect thereof his law aforesaid, &c. ; the same day is given to the said *A. B.* there, &c. At which day, before the said lord the king at *Westminster*,* come (*or, in C. P. “At which day come here,”*) as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* in his proper person ; and hereupon the said *C. D.* hath perfected thereof his law, by himself with — compurgators, as he hath above thereof waged it, &c. Therefore it is considered, that the said *A. B.* take nothing by his bill (*or, writ*) aforesaid ; but that he be in mercy for his false claim, and that the said *C. D.* do go thereof without day, &c.

* The number of compurgators seems to be unsettled. In Co. Lit. 295. it is said, that the defendant ought to bring with him *eleven* persons of his neighbours, that will avow upon their oath, that in their consciences he saith truth, so as he himself must be sworn *de fidelitate*, and the eleven *de credulitate* : and see 2 Inst. 45. 3 Blac. Com. 343, 4. accord. But in *Fleta*, lib. 2. c. 63. it is stated, that the number of compurgators shall depend upon the number of the *secta* produced by the plaintiff ; that is to say, if the *secta* consist of *two*, the compurgators shall be *four*, and so on ; the compurgators being double the number of the *secta*, until the *secta* shall amount to *six*, when it will not be necessary for the compurgators to be double their number, but *eleven* will be sufficient : and see Reeve's Eng. L. 1 V. 377. 2 V. 259. *Termes de la ley*, 442. 2 Vent. 171. Sty. Pr. Reg. 529. 1 New Rep. C. P. 297. 2 Barn. & Cres. 538. 4 Dowl. & Ry. 3. S. C.

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CONCILIIUM, and JUDGMENTS on DEMURRER.

B. } — next after — is appointed to hear the counsel for both par-
v. } ties. Upon the motion of Mr. *W. H. Durham*.
D. }

By the Court.

As yet of — term, &c. (252.)

(Entry of warrants of attorney, as before, p. 185, or 191, 2.)

— (to wit.) Be it remembered, &c. (*here copy the demurrer book verbatim, and then proceed as follows:*) At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the declaration aforesaid, and the matters therein contained, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: And hereupon, &c. (*as before, p. 198, if the damages are assessed by the court; or if they are assessed on a writ of inquiry, "But because it is unknown," &c. as before, p. 200: or in debt, the judgment, for which vide ante, p. 192, immediately follows the finding that the declaration is sufficient.*)

(*To the end of the demurrer book, and then as follows:*) At which day come here, as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; whereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it appears to the said justices here, that the declaration aforesaid, &c. (*as in the last, mutatis mutandis.*)

(*To the end of the issue and demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: Therefore, as well to try the said issue above joined between the said parties, to be tried by the country, as to inquire of and assess the damages by reason of the detention of the said debt in the said first count mentioned, in case judgment shall be given for the said *A. B.* as to the premises whereon the said parties have above put themselves upon the judgment of the court, let a jury, as before, there-

(§ 1.)

Rule for concilium, on demurrer, in K. B. *Prac.* 484, 5. 737, 8.

(§ 2.)

Judgment for the plaintiff, on demurrer to a declaration in *assumpsit*, in K. B. *Prac.* 740. 930.

(§ 3.)

The like, in C. P. *Prac.* 740. 930.

(§ 4.)

The like, after continuances, on demurrer to one count of a declaration in *debt*, and award of *venire* to try the issue on other counts, and assess damages on the first, with *unica taxatio*, in K. B. *Prac.* 740. 930.

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XXXI.*Curia advisari
vult.**Viccomes non
misit breve.**Award of venire,
with a unica
taxatio, &c.*

(§ 5.)

*The like, on
demurrer to
the first count
of a declaration,
with a relicta
verificatione, and
remititur dam-
na as to the
other counts, in
C. P.**Prac. 740. 930.*

upon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place. And because the court here are not yet advised what judgment to give in the premises, whereon the said parties have put themselves upon the judgment of the court, a day is given to the said parties, before our said lord the king at *Westminster*, on the said — next after —, to hear the judgment of the said court thereupon; for that the said court here is not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon all and singular the premises, whereof the said parties have put themselves on the judgment of the court, being seen, and by the court here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said first count of the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt of —*l.* in the said first count of the said declaration mentioned, together with his damages by him sustained on occasion of the detention thereof, &c.: But because it is unknown to the court here, what damages the said *A. B.* hath sustained by reason thereof, and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let the giving of judgment in this behalf against the said *C. D.* be stayed, until the trial of the said issue above joined between the said parties, to be tried by the country; and as well to try the said last-mentioned issue, as to inquire of and assess the damages which the said *A. B.* hath sustained by reason of the detention of the said debt in the said first count of the said declaration mentioned, let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

(*To the end of the issue and demurrer book, and then as follows:*) At which day, come here the parties aforesaid, by their attorneys aforesaid: Whereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it appears to the said justices here, that the said first count of the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action against the said *C. D.* in respect of the premises in the said first count mentioned: And hereupon the said *C. D.* relinquishing his said plea by him above pleaded, as to the second third and last counts of the said declaration, says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* doth owe to

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XXXI.

the said *A. B.* the said several sums of money in those counts respectively mentioned, and above demanded: And upon this the said *A. B.* freely here in court remits to the said *C. D.* the said last-mentioned sums of money, and all damages sustained by the said *A. B.* on occasion of the detention thereof; and he prays judgment for the said sum of —*l.* in the said first count of the said declaration mentioned, together with his damages by him sustained on occasion of the detention thereof, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* in the said first count mentioned, and his damages by him sustained on occasion of the detention thereof, to —*l.* by the justices here adjudged to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said several sums of money and damages, so remitted as aforesaid, &c.

Judgment
signed, &c.
(186.)

Mercy.

(*To the end of the demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come (*or, in the Common Pleas and Exchequer*, “At which day come here,”) the parties aforesaid, by their attorneys aforesaid; and hereupon all and singular the premises being seen, and by the court of our said lord the king now here (*or, in C. P.* by the justices, *or, in the Exchequer*, by the barons here) fully understood, and mature deliberation being thereupon had, it appears to the said court (*or, to the said justices or barons*) here, that the said plea above pleaded by the said *C. D.* in manner and form aforesaid, and the matters therein contained, are not sufficient in law to bar the said *A. B.* from having and maintaining his said action against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: And hereupon, &c. (*or, “But because it is unknown,” &c. as directed before, p. 257.*)

(§ 6.)
The like, on
demurrer to a
plea, in *assumpsit*.
Prac. 740. 930.

(*After copying the demurrer book to the end, proceed as follows:*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea of the said *C. D.* by him lastly above pleaded, as to the said first second and third counts of the said declaration, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said *A. B.* from having and maintaining his aforesaid action thereof against him the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by him sustained on occasion of the not performing of the said promises and undertakings, in the said first second and third counts of the said declaration mentioned: And hereupon the said *A. B.* says, that he will not further prosecute his suit against the said *C. D.* on occasion of the not performing of the said promises and undertakings, in the said fourth fifth and last counts of the said declaration mentioned: Therefore let the said *C. D.* be acquitted, as to those last-

(§ 7.)
The like, on
demurrer to a
plea to the first
second and
third counts of
the declaration,
on which dam-
ages are as-
sessed by the
court, and a
nolle prosequi as
to the remain-
ing counts, in
K. B.
Prac. 370. 740.

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XXXI.Judgment
signed, &c.
(186.)

Mercy.

(§ 7. a.)
The like, on demurrer to a plea, in debt on bond, with suggestion of breaches, &c. before final judgment, on stat. 8 & 9 W. III. c. 11. § 8. in K. B.

Prac. 740.

(§ 8.)
The like, on demurrer to a replication, in *assumpsit*.

Prac. 740.

(§ 9.)
The like, on demurrer to a replication, in debt on bond, with sugges-

mentioned promises and undertakings, and go thereof without day, &c. And the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings, in the said first second and third counts of the said declaration mentioned, to be adjudged to him, &c. And because it is suggested and proved, and manifestly appears to the court here, that the said *A. B.* hath sustained damages, on occasion of the not performing of the said last-mentioned promises and undertakings, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended; therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

(*To the end of the demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea of the said *C. D.* by him in manner and form aforesaid above pleaded, and the matters therein contained are not sufficient in law to bar the said *A. B.* from having and maintaining his aforesaid action thereof against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages by him sustained on occasion of the detention thereof, &c.: And hereupon the said *A. B.* according to the form of the statute in such case made and provided suggests, &c. (*as before, p. 213, to the end.*)

(*To the end of the demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here, (or, in *C. P.* by the justices, or, in the *Exchequer*, by the barons here,) fully understood, and mature deliberation being thereupon had, it appears to the said court (or, to the said justices, or barons) here, that the said plea, in manner and form aforesaid by the said *A. B.* above in reply pleaded, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: And hereupon, &c. (or, "But because it is unknown," &c. *as directed before, p. 257.*)

(*To the end of the demurrer book, and then as follows:*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here

fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea, in manner and form aforesaid by the said *A. B.* above in reply pleaded, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.*: Therefore it is considered, &c. (*final judgment in debt, as before, p. 192, proceeding as follows:*) And hereupon the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that the said writing obligatory in the said declaration mentioned, was made and given by the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, &c. (*setting out the recitals, if any,*) it was declared, &c. (*reciting the condition.*) And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, further suggests, &c. (*suggesting the breach of the condition:*) And the said *A. B.* having prayed the writ, &c. (*as before, p. 212, to the end of the return of the writ of inquiry, omitting the final judgment.*)

(*As in the last, to the end of the finding by the court, that the replication is sufficient in law, and then as follows:*)

Wherefore the said *A. B.* ought to recover against the said *C. D.* his said debt, together with his damages by him sustained on occasion of the detention thereof, &c. And hereupon the said *A. B.* according to the form of the statute in such case made and provided, says that the said *C. D.* did not pay, or cause to be paid unto the said *A. B.* the said sum of —*l.* of good and lawful money of *Great Britain*, with interest for the same, after the rate of *5l. per cent. per annum*, on the said — day of — in the said condition mentioned, or at any time afterwards; but that the said sum of —*l.* and every part thereof, and also a large sum of money, to wit, the sum of —*l.* for the interest thereof, after the rate aforesaid, still remains justly due and owing from the said *C. D.* to the said *A. B.* to wit, at *Westminster* aforesaid, in the said county. And the said *A. B.* prays the writ of our said lord the king, to be directed to the sheriff, &c. (*as before, p. 212, to the end of the award of inquiry, and then as follows:*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the honourable —, one of the justices of our lord the king, assigned to hold pleas before the king himself, now here returns a certain inquisition indented, taken before him, by virtue of the said writ, at *Westminster-hall* in the county of *Middlesex*, on — the — day of — in the year of our lord 18—, in the absence of the said chief-justice, by the oath of twelve good and lawful men of the same county; by which it is found, that the said *A. B.* hath sustained damages, by occasion of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.* above his costs and charges, by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also —*l.* for his damages which he

tion of breaches, &c. after final judgment, on stat. 8 & 9 W. III. c. 11. § 8.

Prac. 740.

(§ 10.)

The like, in debt on mortgage bond, with assignment of breach; where the inquiry, awarded to the chief-justice was executed, in his absence, before a *puisne* judge at *Nisi Prius*, in K. B.

Prac. 740.

Judgment signed, &c. (186.)

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XXXI.*Capiatur.*

(§ 11.)

The like, where the breaches are assigned in the replication, and final judgment is stayed, until after the damages are assessed.

Prac. 740.

(§ 12.)

The like, on demurrer to a replication to one of several pleas in trespass, with a *replead verificatio* as to another.

Prac. 740.

(§ 13.)

Judgment for the defendant, on demurrer to a declaration, or replication.

Prac. 741.

Judgment signed, &c. (186.)

hath sustained, as well on occasion of detaining the said debt, as for his costs and charges by him 'about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* with his assent ; and that the said *C. D.* be taken, &c.

(*As in the last but one, to the end of the finding by the court, that the replication is sufficient in law, and then as follows :*) Wherefore the said *A. B.* ought to recover against the said *C. D.* his said debt, together with his damages by him sustained on occasion of the detention thereof, &c. : But because it is convenient and necessary that judgment should not be given hereupon, until the truth of the aforesaid breaches of the said condition of the said writing obligatory above assigned, shall have been inquired into, and the damages which the said *A. B.* hath sustained thereby, shall have been assessed by a jury of the country in that behalf, according to the form of the statute in such case made and provided ; therefore let judgment hereupon be stayed, in the mean time. And the said *A. B.* having prayed the writ, &c. (*as in pp. 212, 13. to the end.*)

(*To the end of the demurrer book, and then as follows :*) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid : Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea by the said *A. B.* in manner and form aforesaid above in reply pleaded, to the said plea of the said *C. D.* by him lastly above pleaded in bar, as to the trespasses in the introductory part of that plea mentioned, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* And hereupon the said *C. D.* relinquishing his said plea by him first above pleaded, says that he cannot deny the action of the said *A. B.* nor but that he the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises : wherefore the said *A. B.* ought to recover his damages against the said *C. D.* But because it is unknown, &c. (*as before, pp. 200, 201.*)

(*After copying the demurrer book to the end, proceed as follows :*) At which day, before our said lord the king at *Westminster*, come (*or, in the Common Pleas and Exchequer, "At which day come here,"*) the parties aforesaid, by their attornies aforesaid : Whereupon all and singular the premises being seen, and by the court of our said lord the king now here (*or, in C. P. by the justices, or, in the Exchequer, by the barons here*) fully understood, and mature deliberation being thereupon had, it appears to the said court (*or, to the said justices, or, barons*) here, that the declaration (*or, replication*) aforesaid, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.* : Therefore it is considered, that the said *A. B.* take nothing by his said bill, (*or, writ,*) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered by his majesty's court here,

that the said *C. D.* do recover against the said *A. B.* —*l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

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XXXI.

Execution.

(*To the end of the demurrer book, and then as follows :*) At which day, before our said lord the king at *Westminster*, come (*or, in the Common Pleas and Exchequer*, “At which day come here,”) the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, &c. (*as in the last*,) it appears to the said court (*or, in C. P.* to the said justices, *or, in the Exchequer*, to the said barons) here, that the said plea above pleaded by the said *C. D.* in manner and form aforesaid, (*or, the said rejoinder of the said C. D.* by him above made,) and the matters therein contained, are sufficient in law to bar the said *A. B.* from having or maintaining his said action against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said bill, (*or writ*,) but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (*as in last*.)

(§ 14.)
The like, on
demurrer to a
plea, or re-
joinder.

Prac. 741.

Judgment
signed, &c.
(186.)

CHAP. XXXII.

ISSUE, and TRIAL by the RECORD; and JUDGMENTS thereon.

(§ 1.)
Plea of *nil tibi*
record, in debt
on judgment, or
recognizance.
Prac. 643. 742.

D. } **AND** the said *C. D.* by — his attorney, comes and defends the
ats. } wrong and injury, when, &c. and saith that there is not any record
B. } of the supposed recovery (*or*, recognizance) in the said declaration
mentioned, remaining in the said court of our said lord the king before
the king himself, (*or*, in *C. P.* “ in the said court of our said lord the king
of the bench aforesaid,”) at *Westminster* aforesaid, as the said *A. B.* hath
above in his said declaration in that behalf alleged: And this he the said
C. D. is ready to verify; wherefore he prays judgment, if the said *A. B.*
ought to have or maintain his aforesaid action thereof against him, &c.

(§ 2.)
Replication
thereto, when
the record is in
the same court.
Prac. 725. 742.

B. } And the said *A. B.* saith that he, by reason of any thing by the
v. } said *C. D.* in his said plea above alleged, ought not to be barred from
D. } having and maintaining his aforesaid action thereof against him:
Because he saith, that there is such a record of the supposed recovery
(*or*, recognizance) in the said declaration mentioned, remaining in the said
court, &c. (*as in last*), as the said *A. B.* hath above in his said declaration
in that behalf alleged: And this he the said *A. B.* is ready to verify by
the said record, of — term, in the — year of the reign of our said
lord the now king, in the — roll; and he prays that the term and roll
aforesaid may be seen and inspected by the court of our lord the king now
here, (*or*, in *C. P.* by the justices here:) And because the said court (*or*,
in *C. P.* the said justices) here are not yet advised, what judgment to
give of and upon the premises, a day is therefore given to the parties
aforesaid, before our said lord the king at *Westminster*, until — next
after —, (*or*, by original in *K. B.* until —, wheresoever, &c.) to hear
the judgment of the said court thereupon; for that the said court of our
said lord the king now here are not yet advised thereof, &c. (*or*, in *C. P.*
“ a day is therefore given to the parties aforesaid here, until —, to hear
their judgment thereupon; for that the said justices here are not yet ad-
vised thereof, &c.”)

(§ 3.)
The like, in a
different court.
Prac. 725. 742.

(*As in the last, to the conclusion, which is as follows:*)

And this he the said *A. B.* is ready to verify by the said record, when,
where, and in such manner as the court (*or*, in *C. P.* the justices) here
shall direct and award: and he prays that the said record may be seen and
inspected by the said court (*or*, in *C. P.* by the said justices) here: And

because the said *A. B.* hath not the said record now here, it is commanded to the said *A. B.* that he have the said record, before our said lord the king at *Westminster*, on — next after —, (*or, by original in K. B.* on —, wheresoever, &c.; *or, in C. P.* that he have the said record here, on —,) and that he fail not at his peril; the same day is given to the said *C. D.* at the same place, (*or, in C. P.* here, &c.)

— term, &c. (237.)

D. } And the said *C. D.* by *G. H.* his attorney, comes and defends the
pts. } wrong and injury, when, &c. and says that the said *A. B.* ought not
to have or maintain his aforesaid action thereof against him; be-
cause he says, that the said *A. B.* heretofore, to wit, in — term, in
the — year of the reign of our lord the now king, in the court of our
said lord the king before the king himself, the same court then and still
being holden at *Westminster* in the county of *Middlesex*, (*or, in C. P.*
“in the court of our said lord the king, before Sir *William Draper*
Best knight and his companions, then his majesty’s justices of the bench,
at *Westminster* in the county of *Middlesex* ;” *or, in the Exchequer*, “be-
fore the barons of his majesty’s Exchequer, at *Westminster* in the county
of *Middlesex*,”) inpleaded the said *C. D.* in a certain plea of trespass on
the case upon promises, to the damage of the said *A. B.* of — *l.* on occa-
sion of the not performing of the very same identical promises and un-
dertakings in the said declaration mentioned; (*or, in debt*, “in a certain
plea of *debt* on demand for — *l.* upon the same identical writing obliga-
tory,” *or* “cause of action, in the said declaration mentioned :”) And such
proceedings were thereupon had in the said court, in that plea, that af-
terwards, to wit, in that same — term, in the — year aforesaid, the
said *A. B.* by the consideration and judgment of the same court, recovered
in the said plea, against the said *C. D.* — *l.* for his damages which he
had sustained, as well on occasion of the not performing of the same
identical promises and undertakings in the said declaration mentioned, (*or,*
in debt, “his said-debt, and also — *l.* for his damages which he had sus-
tained, as well on occasion of the detaining thereof,”) as for his costs and
charges by him about his suit in that behalf expended; whereof the said
C. D. was convicted, as by the record and proceedings thereof, still re-
maining in the said court of our said lord the king before the king him-
self, (*or, in C. P.* “of the Bench aforesaid,” *or, in the Exchequer*, “be-
fore the barons of his Exchequer aforesaid,”) at *Westminster* aforesaid,
more fully and at large appears: which said judgment still remains in
full force and effect, not in the least reversed, satisfied, or made void:
and this he the said *C. D.* is ready to verify, by the said record; where-
fore he prays judgment, if the said *A. B.* ought to have or maintain his
aforesaid action thereof against him, &c.

G. Wailes.

In the King’s Bench, (*or, Common Pleas.*)

A. B. v. C. D.

I do hereby demand a note in writing of the term, and number of
the roll, whereon the supposed recovery in the plea in this cause men-

(§ 4.)
Plea of judg-
ment recovered,
in *assumpsit* or
debt, in *K. B.*
C. P. or *Ex-*
chequer.
Prac. 725. 742.

(§ 5.)
Demand of term,
and number of
judgment roll.
Prac. 742.

CHAP.
XXXII.

tioned is entered; and in default thereof, the said plea will be considered as a nullity, and judgment will be signed as for want of a plea.

Your's, &c.

To Mr. G. H. defendant's attorney,
(or, agent.)

E. F. plaintiff's attorney,
(or, agent.)

— 18—.

(§ 6.)
Replication of
nil tiel record,
to a plea of
judgment, &c.
in the same
court.
Prac. 725. 742.

B. } And the said A. B. saith that he, by reason of any thing by the
v. } said C. D. in his said plea above alleged, ought not to be barred, &c.
D. } (as in § 2.) because he saith, that there is not any record of the sup-
posed recovery (or, recognizance) in the said plea mentioned, remaining
in the said court, &c. (as in § 1.) in manner and form as the said C. D.
hath above in his said plea in that behalf alleged: And this he the said
A. B. is ready to verify, when, where, and in such manner as the court
(or, in C. P. the justices) here shall direct and award: And because the
court of our said lord the king now here (or, in C. P. the justices here)
will advise themselves, upon the inspection and examination of the said
record, by the said C. D. above alleged, a day is given to the parties afore-
said, &c. (as before, § 2.)

(§ 7.)
The like, in a
different court.
*Prac. 725.
742, 3.*

(As in the last, to the conclusion, which is as follows:)

And this he the said A. B. is ready to verify, &c. (as in § 3.) And
hereupon the said C. D. is commanded, that he have the said record before
our said lord the king at Westminster, on — next after —, (or, by
original in K. B. on — wheresoever, &c.; or, in C. P. that he have
the said record here, on —,) and that he fail not at his peril; the
same day is given to the said A. B. at the same place, (or, in C. P. here,
&c.)

(§ 8.)
Rejoinder to a
replication of
nil tiel record,
concluding
with a verifica-
tion, and prayer
of judgment, &c.
Prac. 743.

D. } And the said C. D. saith, that the said A. B. by reason of any
ats. } thing in his said replication above alleged, ought not to have or main-
B. } tain his aforesaid action thereof against him: Because he saith, that
there is such a record, &c. (as in § 6.) And this he the said C. D. is
ready to verify by the said record, when, where, and in such manner
as the court (or, in C. P. the justices) here shall direct and award:
And because the said C. D. hath not the said record now here, it is
commanded to the said C. D. that he have the said record, &c. (as in the
last.)

(§ 9.)
Notice of plain-
tiff's intention
to produce a
record of the
same court.
Prac. 743.

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

Take notice, that the above-named plaintiff will, on the — day of
— instant, (or, next,) produce in his majesty's court of King's Bench,
(Common Pleas, or Exchequer,) the record of the judgment in his de-
claration mentioned. Dated, &c. (as above.)

(§ 10.)
Master's rule, for
defendant to pro-
duce record, and
copy thereof, to
be served, in
K. B.
Prac. 743.

— next after — is given to the defendant to produce the
record.

In the King's Bench.

B. } — next after — is given to the defendant to produce the re-
v. } cord.
D. } Entered.

B. } — next after — is given to the defendant to produce the re-
v. } cord ; otherwise let judgment be entered for the plaintiff.
D. }

(§ 11. a.)
 Entry of rule,
 in K. B.

By the Court.

B. } Rule for judgment, on an issue of *nul tiel record*.
v. }
D. }

E. F. plaintiff's attorney, (or, agent.)

(§ 12.)
 Rule for judg-
 ment, on *nul tiel*
record, in K. B.

— 18—.

Prac. 744.

B. } Forasmuch as the plaintiff hath brought into this court, the record
v. } of the judgment in his declaration mentioned ; It is ordered, that
D. } judgment be entered for the plaintiff, upon the issue of no such re-
 cord, unless cause shall be shewn to this court to the contrary, on or before
 — next.

By the Court.

(§ 13.)
 The like, in
 C. P. on pro-
 duction of re-
 cord declared on.
Prac. 486. 744.

B. } Forasmuch as the defendant hath not this day brought into this
v. } court, the record of the judgment in his plea mentioned ; It is or-
D. } dered, that judgment upon the issue of no such record, joined be-
 tween the said parties, be entered for the plaintiff, unless cause, &c. (*as*
in last.)

(§ 14.)
 The like, in
debt, on non-
 production of
 record pleaded
 by defendant.
Prac. 486. 745.

George the Fourth, &c. (14.) To our right trusty and well beloved
Charles Lord Tenterden, our chief-justice assigned to hold pleas before us,
 greeting: We being willing, for certain causes, to be certified of the
 tenor of the record and proceedings in a certain plaint, which was in our
 court before us, by bill without our writ, between *A. B.* and *C. D.* of a
 plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (*or,*
as the plea is,) and of the judgment thereupon given in our said court be-
 fore us, in the plea aforesaid, as it is said ; command you, that having
 diligently searched and examined the rolls and records of proceedings and
 judgments in our said court before us, of — term, in the — year of
 our reign, you distinctly and openly certify to us, without delay, in our
 Chancery, under your seal, what you shall there find of the tenor of the
 record and proceedings in the said plaint, and of the judgment aforesaid,
 with all things touching the same, as fully and entirely as they now re-
 main in our said court before us at *Westminster* aforesaid, by whatsoever
 names the said parties may be called therein, together with this writ.
 Witness ourself at *Westminster*, the — day of —, in the — year
 of our reign.

(§ 15.)
 Writ of *certio-*
rari, from Chan-
 cery, to the
 King's Bench.
Prac. 745.

George the Fourth, &c. (14.) To our right trusty and well beloved
Sir William Draper Best knight, our chief-justice of the bench at *West-*
minster, greeting: We send you inclosed herein, under the seal of our
 chancellor, the tenor of the record and proceedings in a certain plaint,
 which was in our court before us, by bill without our writ, between *A. B.*
 and *C. D.* of a plea of trespass on the case, to the damage of the said
A. B. of — *l.* (*or, as the plea is,*) and of the judgment thereupon given
 in our said court before us, at *Westminster* aforesaid ; the tenor of the said
 record and proceedings, and of the judgment aforesaid, having been cer-
 tified to us in our Chancery, by our chief-justice assigned to hold pleas in
 our court before us, by virtue of our writ of *certiorari*, to him in that
 behalf directed. Witness, &c. (*as in last.*)

(§ 16.)
Mittimus there-
 on, to C. P.
Prac. 745.

(§ 17.)
Writ of *certiorari*, from K. B.
to C. P.

Prac. 745.

George the Fourth, &c. (14.) To our right trusty and well-beloved Sir *William Draper Best* knight, our chief-justice of the bench at *Westminster*, greeting: We being willing, for certain causes, to be certified of the tenor of the record and proceedings in a certain plaint, which was in our court before you and your companions, our justices of the bench at *Westminster* aforesaid, by our writ, between *A. B.* and *C. D.* of a plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (or, as the plea is,) and of the judgment thereupon given in our said court, before our justices aforesaid, as it is said; command you, that having diligently searched and examined the rolls and records of proceedings and judgments in our said court before our justices aforesaid, of — term, in the — year of our reign, you distinctly and openly certify to us, without delay, under your seal, the tenor of what you shall there find of the record and proceedings in the said plaint, and of the judgment aforesaid, with all things touching the same, as fully and entirely as they now remain in our said court before you, by whatsoever names the parties may be called therein, together with this writ. Witness *Charles Lord Tenterden, &c.* (205.)

(§ 18.)
The like, from
C. P. to an in-
ferior court.

Prac. 745.

George the Fourth, &c. (14.) To —, greeting: We being willing, for certain causes, to be certified of the tenor of the record and proceedings in a certain plaint, which was in our court before you, between *A. B.* and *C. D.* of a plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (or, as the plea is,) and of the judgment thereupon given in our said court, as it is said; command you, that having diligently searched and examined the rolls and other memorandums of records of proceedings and judgments in our said court, you distinctly and openly certify to our justices of the bench at *Westminster*, on —, under your seal, the tenor of what you shall there find of the record and proceedings in the said plaint, and of the judgment aforesaid, with all things touching the same, as fully and entirely as they now remain in our said court before you, by whatsoever names the parties may be called therein, together with this writ. Witness Sir *William Draper Best* knight, &c. (205, 6.)

(§ 19.)
Judgment for
the plaintiff, on
plea of nul-
tial record, in
debt.

Prac. 746.
930, 31.

Judgment
signed, &c.
(186.)

(To the end of the issue, and then as follows:)

At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; upon which the record aforesaid being seen and inspected by the said court here, it sufficiently appears to the same court, that there is such a record of recovery against him the said *C. D.* at the suit of the said *A. B.* as he the said *A. B.* hath above in that behalf alleged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained, as well by reason of the detaining of the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of

the statute in such case made and provided: And the said *C. D.* in mercy, Mercy.
&c.

(*To the end of the issue, and then as follows :*)

At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") the parties aforesaid, by their attorneys aforesaid; and the said *A. B.* hath not here in court the record of the supposed recovery in the said declaration mentioned, but hath failed and made default in producing the same: Therefore it is considered, that the said *A. B.* take nothing by his said bill, (or, writ,) but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (*as before, p. 235.*)

(*To the end of the issue, and then as follows :*)

At which day, before our said lord the king at *Westminster*, comes (or, in the *Common Pleas and Exchequer*, "At which day comes here,") the said *A. B.* by his said attorney: and the said *C. D.* although solemnly demanded in open court, to appear and produce the said record by him above in pleading alleged, cometh not, nor produceth the same, but therein wholly fails and makes default; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown, &c. (*as before, pp. 200, 201.*)

At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas and Exchequer*, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid: Whereupon the record aforesaid being seen and inspected by the said court here, it sufficiently appears to the same court, that there is such a record of a recovery against him the said *C. D.* at the suit of the said *A. B.* as he the said *C. D.* hath above in that behalf alleged: Therefore it is considered, that the said *A. B.* take nothing by his said bill, (or, writ,) &c. (*as in § 20.*)

(§ 20.)

The like, for defendant, on plea of nul tiel record.

Prac. 746.
930, 31.

Judgment signed, &c. (186.)

(§ 21.)

The like, for plaintiff, on a replication of nul tiel record, in *assumpsit*, in K. B.

Prac. 746.
930, 31.

(§ 22.)

The like, for defendant.

Prac. 746.
930, 31.

CHAP. XXXIII.

PROCEEDINGS ON ISSUES TRIABLE *by the COUNTRY, at BAR,*
or NISI PRIUS.

— on (or, next after) —, &c. (175.)

(§ 1.)
Rule for trial
at bar, in K. B.
Prac. 487. 489.
750.

B. } UPON reading the rule made in this cause, on — next after
v. } — in this term, and hearing Mr. *Richard Farrell*, of counsel for
D. } the defendant, and Mr. *Charles Bowman*, of counsel for the plaintiff;
It is ordered, that the trial of this cause be had at the bar of this court,
on — the — day of — now next ensuing. By the Court.

(§ 2.)
Notice of trial,
in *London*.
Prac. 754.

In the King's Bench, &c. (185.) A. B. plaintiff, &c. (*id.*)
Take notice of trial in this cause, for the — sittings within (or, for
the first day of the sittings, or adjournment day, as the case may be,
after) this present — term, to be holden at the *Guildhall* of the city of
London. Dated the — day of —, 18—.

Your's, &c.

To Mr. G. H. defendant's
attorney, (&c.)

E. F. plaintiff's attorney,
(agent, or clerk in court.)

(§ 3.)
The like, in
Middlesex.
Prac. 754.

If in *Middlesex*, say, “for the — sittings within (or, for the sittings
after) this present — term, to be holden at *Westminster-hall*, in the
county of *Middlesex*.”

(§ 4.)
The like, at the
assizes.
Prac. 754.

If at the assizes, “for the next assizes, to be holden at —, in and
for the county of —.”

(§ 5.)
Notice of trial,
and assessment
of damages, to
a defendant
who has let
judgment go by
default.
Prac. 754.

Take notice, that the issue joined in this cause, between the above-
named plaintiff, and the above-named C. D. will be tried at the — sit-
tings, (or, next assizes,) &c. (*as above*;) and that the jury who try the
issue, will at the same time assess the damages against you in this cause,
upon the judgment by default. Dated, &c. (*as above*.)

(§ 6.)
Notice of trial
at bar.
Prac. 750.

Take notice, that this cause will be tried at the bar of the court, on
—, at *Westminster-hall*, in the county of *Middlesex*. Dated, &c. (*as
above*.)

(§ 7.)
Term's notice
of trial.
Prac. 756.

Take notice, that the plaintiff intends to proceed, after the end of the
ensuing term, by giving notice of trial in this cause. Dated, &c. (*as
above*.)

(§ 8.)
New notice of
trial.
Prac. 757, 8.

(*This notice is similar to the original one, for which vide ante, § 2.
&c.*)

(§ 9.)
Notice of con-
tinuance.
Prac. 758.

I do hereby continue the notice of trial given you in this cause, to the
sitting after this present — term. Dated, &c. (*as above*.)

I do hereby countermand the notice of trial given you in this cause.
Dated, &c. (*as in* § 2.)

(§ 10.)
Notice of countermand.

In the King's Bench, &c. (185.) A. B. plaintiff, &c. (*id.*)

Prac. 757.

G. H. of —, maketh oath and saith, that issue was joined in this cause, in — term last, and notice of trial given thereon for the sitting after the said term, (*or, for the last assizes holden at —, in and for the county of —, according to the fact:*) And this deponent further saith, that the above-named plaintiff did not proceed to the trial of the said cause, nor countermand such notice in due time, according to the rules of this honourable court.

(§ 11.)
Affidavit for costs, for not proceeding to trial.

Prac. 758.

G. H.

Sworn, &c. (175.)

B. } Upon reading the affidavit of —, It is ordered, that the attorneys
v. } of both parties shall attend the master, and he shall examine the
D. } matter, and tax the defendant his costs, for that the plaintiff hath
not proceeded to trial pursuant to his notice; which costs, when taxed,
shall be paid by the plaintiff, if it shall appear to the master that costs
ought to be paid. Upon the motion of Mr. V. Knox. By the Court.

(§ 12.)
Rule of court thereon, in K. B.
Prac. 485.
757, 8.

B. } Let there be a record of *nisi prius* by *proviso*, if the plaintiff shall
v. } have made default.
D. }

Entered.

(§ 13.)
Master's rule, for trial by *proviso*, in K. B.
Prac. 483. 761.

In the King's Bench.

B. } Let there be a record of *nisi prius* by *proviso*, if the plaintiff shall
v. } have made default.
D. }

Entered.

(§ 14.)
Copy thereof, to be served.
Prac. 761.

In the King's Bench, (*or, Common Pleas.*) A. B. plaintiff, &c. (185.)

Take notice of trial by *proviso* in this cause, for the — sittings, (*or, "next assizes,"*) &c. (*as in other cases.*) Dated, &c. (*as in* § 2. *with the like subscription and direction.*)

(§ 15.)
Notice of trial by *proviso*.
Prac. 761.

In the Common Pleas.

A. B. plaintiff, &c. (185.)

Take notice, that this honourable court will be moved on —, or so soon after as counsel can be heard, that the like judgment may be had for the defendant in this cause, as in the case of a nonsuit, pursuant to the statute in such case made and provided.

(§ 16.)
Notice of motion, for judgment as in case of a nonsuit, in C. P.
Prac. 491.
765, 6.

Your's &c.

G. H. defendant's attorney, (&c.)

To Mr. E. F. plaintiff's attorney, (&c.)

In the King's Bench, &c. (185.) A. B. plaintiff, &c. (*id.*)

G. H. of —, attorney for the defendant in this cause, maketh oath and saith, that issue was joined in this cause, in — term last past, and notice of trial given for the — sitting in (*or, for the sittings after*) the said term, (*or, for the last assizes holden at —, in and for the county of —;*) and that the said plaintiff did not proceed to the trial of this cause, pursuant to the said notice. And (*in C. P.*) this deponent further saith, that he did on the — day of — instant, (*or last,*) personally serve Mr. E. F. attorney for the plaintiff in this cause, with a true copy of the notice hereto annexed; (*or, if the notice was not personally served on the attorney, "did on, (&c.) serve a true copy of the notice hereto an-*

(§ 17.)
Affidavit, for judgment as in case of a nonsuit.
Prac. 765, 6.

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nexed, on Mr. *E. F.* attorney for the plaintiff in this cause, by leaving the same at the house of the said *E. F.* in —, with his clerk, or servant, there;” or, in the *Exchequer*, “that he did on — instant, (or, last,) serve *E. F.* attorney for the plaintiff in this cause, with a notice in writing, purporting that this honourable court, would be moved, on the — day of — instant, or so soon after as counsel could be heard, for the said plaintiff to shew cause, why the like judgment should not be entered for the defendant in this cause, as in case of a nonsuit, by leaving such notice on the seat of the said *E. F.* in the *Exchequer* office of pleas of the same court.”)

G. H.

Sworn, &c. (175.)

The affidavit, if made after the second term in town, or next assizes but one in the country, need not state the notice of trial.

— on (or next after) —, &c. (175.)

(§ 18.)
Rule nisi
thereon, in
K. B.
Prac. 488. 765.

B. } Upon reading the affidavit of —, and the entry of the issue on
v. } record; It is ordered, that the plaintiff, upon notice of this rule to be
D. } given to his attorney, shall, upon —, shew cause, why the like
judgment should not be given for the defendant, as in the case of a nonsuit, pursuant to the statute in such case made and provided. Upon the motion of Mr. *G. Maule*.

By the Court.

— on (or next after) —, &c. (175.)

(§ 18. a.)
Rule absolute
thereon, in
K. B.
Prac. 488. 765.

B. } Upon reading the rule made in this cause on —, in — term
v. } last past, and the affidavit of *L. M.* It is ordered, that the like
D. } judgment be entered for the defendant, as in the case of a nonsuit,
pursuant to the statute in such case made and provided. Upon the motion of Mr. *G. Maule*.

By the Court.

— on (or next after) —, &c. (175.)

(§ 19.)
Rule for dis-
charging rule
nisi, on
peremptory un-
dertaking.
Prac. 767, 8, 9.

B. } Upon reading the rule made in this cause on —, and the affida-
v. } vit of —, and upon the undertaking of the plaintiff to bring on
D. } the issue in this cause to be tried at the — sittings, (or, “next
assizes,”) &c. It is ordered, that the said rule be discharged; and further
time is allowed to the said plaintiff, to bring on the issue to be tried, pur-
suant to his undertaking; and the same is then peremptorily to be
brought on to be tried. Upon hearing Mr. *B. Hall*, for the plaintiff,
and Mr. *G. Maule*, for the defendant.

By the Court.

In the King’s Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

(§ 20.)
Affidavit, for
judgment as in
case of a non-
suit, after a pe-
remptory un-
dertaking.
Prac. 769.

G. H. of —, attorney for the defendant in this cause, maketh oath and saith, that this honourable court was moved in last — term, for judgment as in case of a nonsuit; and upon shewing cause, the plaintiff peremptorily undertook to bring on the said issue to be tried, at the sittings after the said term, (or, at the — sitting within this present — term;) whereupon the annexed rule was made: And this deponent further saith, that the plaintiff hath not proceeded to the trial of the said issue, in pursuance of his said undertaking. And (in *C. P.*) this deponent further saith, that he did on, (&c.) personally serve, &c. (*as before*,
§ 17.)

G. H.

Sworn, &c. (175.)

(For the form referred to in the Practice, as being in this section, vide ante, § 18. a.)

(§ 21.)

As yet of — term, &c. (185.)

{Enter the warrants of attorney for both parties, as before, p. 185. or pp. 191, 2.; and, after copying, the issue, &c. to the end of the second award of the venire facias, as before, p. 251. proceed as follows:}

(§ 22.)

Judgment as in case of a non-suit.

Prac. 768, 9. 930.

At which day, before our said lord the king at *Westminster*, comes (or, in the *Common Pleas and Exchequer*, “At which day comes here,”) the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not: And it appearing to the court of our said lord the king now here, or, in *C. P.* to the justices, or, in the *Exchequer*, to the barons here,) that the said *A. B.* hath neglected to bring the issue above joined on to be tried, according to the course and practice of the said court; therefore, according to the form of the statute in such case made and provided, it is considered, that the said *A. B.* take nothing by his said bill, (or writ,) but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 235.)

Judgment signed, &c. (186.)

In the King's Bench, &c. (223.)

A. B. plaintiff, &c. (*id.*)

(§ 23.)

Take notice, that this honourable court will be moved on —, or so soon after as counsel can be heard, that the trial of this cause may be put off until next — term, on account of the absence of a material witness, on the part of the defendant; and in the mean time, all further proceedings be stayed.

Notice of motion, to put off a trial, for the absence of a witness.

Prac. 772.

Your's, &c.

G. H. defendant's attorney, (&c.)

To Mr. *E. F.* plaintiff's attorney, (&c.)

In the King's Bench, &c. (223.)

A. B. plaintiff, &c. (*id.*)

(§ 24.)

C. D. of —, the defendant in this cause, maketh oath and saith, that issue was joined in this cause, in — term last past, and that notice was given for the trial thereof at the — sitting within (or, at the sittings after) the said term: And this deponent further saith, that *E. F.* late of —, is a material witness for him this deponent in the said cause; as he is advised and believes; and that he cannot safely proceed to the trial thereof, without the testimony of him the said *E. F.* And this deponent further saith, that in consequence of the notice of trial so given as aforesaid, he this deponent caused inquiry to be made, &c. (stating the nature and result of the inquiry made after the witness, and the time when he is likely to attend.)

Affidavit, in support thereof. Prac. 772, 3.

Sworn, &c. (175.)

C. D.

CHAP. XXXIV.

RECORD of NISI PRIUS, in the KING'S BENCH, and COMMON
PLEAS ; RECORD, and COMMISSION, in the EXCHEQUER ;
WRITS of MITTIMUS, to COUNTIES PALATINE ; JURY
PROCESS ; SPECIAL JURIES ; and VIEWS.

(§ 1.)
Record of nisi
prius, in K. B.
Prac. 77b, 6.

PLEAS before our lord the king at *Westminster*, of — term, (*the term in which issue is joined,*) in the — year of the reign of our sovereign lord George the Fourth, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, and in the year of our Lord 18—.

Roll —.

Ellenborough.

— to wit. (*Here copy the issue, beginning with the memorandum by bill, and the declaration by original ; and then proceed as follows :*)

Second placita.
Prac. 77b.

PLEAS before our lord the king at *Westminster*, of — term, (*the term in or after which the cause is to be tried,*) in the — year of the reign, &c. (*as before.*)

Jurata.
Prac. 77b.

— to wit. The jury between *A. B.* by his attorney plaintiff, and *C. D.* (*inserting his addition, by original,*) defendant, of a plea of trespass on the case, (*or, as the action is,*) is respited before our lord the king at *Westminster*, until — next after —, (*the return of the distringas, or, by original, until — wheresoever, &c.*) unless the right honourable Charles Lord *Tenterden*, his majesty's chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of —, (*the day of sittings,*) at the *Guild-hall* of the city of London, [*or, if in Middlesex, "at Westminster-hall in the county of Middlesex ;" or, if in the country,* "unless his majesty's justices assigned to take the assizes in and for the county of —, shall first come, on — the — day of —, (*the commission day of the assizes,*) at —, (*the place where the assizes are holden,*) in the said county, according to the form of the statute in such case made and provided,"] for default of the jurors, because none of them did appear : Therefore let the sheriff have the bodies of the said jurors, to make the said jury between the parties aforesaid, of the plea aforesaid, accordingly ; the same day is given to the parties aforesaid, at the same place.

Sciendum.
Prac. 77b.

(*At the assizes, the jurata in K. B. concludes as follows :*) And be it known, that the king's writ on record was delivered to the under-sheriff of the said county, on — the — day of — in this same term, (*the*

last day of the term preceding the trial,) before our lord the king at Westminster, to be executed according to law, at his peril.

PLEAS at Westminster, before Sir William Draper Best knight and his companions, justices of our lord the king of the Bench, of — term, (*the term in which issue is joined,*) in the — year of the reign of our sovereign lord George the Fourth, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith, &c. Roll —.

— to wit. C. D. was attached (*or, summoned*) to answer A. B. &c. (*to the end of the issue; after which, if the cause be not tried the same term in which it was joined, there is a second placita, as above, of the term in or after which the trial is had; and then, or without a second placita, if the cause be tried the same term, proceed with the jurata, as follows:*)

— to wit. The jury between A. B. plaintiff, and C. D. late of *Jurata.*
— defendant, in a plea of trespass on the case, (*or, as the action is,*) is respited here, until —, (*the return of the habeas corpora juratorum,*) unless Sir William Draper Best knight, his majesty's chief-justice of the Bench here, assigned according to the form of the statute in that case made and provided, shall first come on — the — day of —, (*the day of sittings,*) at the Guildhall of the city of London, [*or, if in Middlesex, at Westminster, in the county of Middlesex, in the great hall of pleas there; or, if in the country, "unless his majesty's justices assigned to take the assizes in and for the county of —, shall first come on — the — day of —, (the commission day of the assizes,) at —, (the place where the assizes are holden,) in the said county, according to the form of the statute in that case made and provided,"*] for default of the jurors, because none of them did appear: Therefore let the sheriff have the bodies of the several persons mentioned in the panel annexed to the writ of *habeas corpora juratorum*: And be it known, that the justices here in court, in this same term, delivered a writ thereupon to the deputy sheriff of the county aforesaid, to be executed in due form of law, &c.

PLEAS at Westminster, before — (*the chief-justice who is dead, or removed,*) and his companions, justices of our lord the king of the Bench, on —, (*the general return day, or day previous to his death or removal,*) and before — and —, (*naming the other justices of the court,*) justices of our said lord the king of the Bench aforesaid, on —, (*the general return day, or day after the death or removal,*) in — term, in the — year of the reign, &c. (*as in § 1.*)

In counties palatine, there is no second *placita, jurata, or sciendum*; but the record of *nisi prius* ends with the award of the *mitimus*.

PLEAS before the Barons, &c. (*as before, p. 71.*)

(*Copy the issue, as before, p. 242. and proceed on the same line as follows:*) Therefore to try the issue (*or, issues*) aforesaid, between the parties aforesaid above joined, let a jury be made thereof; and the sheriffs of the city of London aforesaid are (*or, in Middlesex, the sheriff of the county of Middlesex aforesaid is*) commanded, that they (*or, he*) cause to come here, on —, (*the return of the venire,*) twelve good and lawful men

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(§ 2.)
Record of *nisi prius*, in C. P.
Prac. 775.

(§ 3.)
Placita, in C. P. on the death or removal of a chief-justice, in term time.
Prac. 775. (c.)

(§ 4.)
Record in the Exchequer, for trial of a town cause.
Prac. 775. (a.)
777.

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of the body of their city, (or, county,) qualified according to law, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriffs of the said city of *London* (or, sheriff of the county of *Middlesex* aforesaid) sent here the writ of *venire facias* of the jurors, with a panel of the names of the jurors, to the said writ annexed; and those jurors being called, come not: Therefore the sheriffs of the said city of *London* are (or, sheriff of the said county of *Middlesex* is) commanded, that they (or, he) distrain the jurors aforesaid, by their lands, &c. so that, &c. on —, (*the return of the distringas*;) unless the right honourable Sir *William Alexander* knight, chief-baron of his majesty's court of Exchequer, according to the form of the statute in such case made and provided, shall first come on — the — day of — next coming, (*the day of the sitting*;) at the *Guildhall* of the city of *London*, (or, at *Westminster* aforesaid, in the said county of *Middlesex*, in the place where the court of Exchequer is usually holden,) so that the inquest thereof before the said chief-baron, at the *Guildhall* aforesaid, (or, at *Westminster* aforesaid, in the place aforesaid,) then and there distinctly and openly taken, may be had here, on the aforesaid —, (*the return of the distringas*;) And it is told the parties aforesaid, that they attend before the said chief-baron, at the *Guildhall* aforesaid, (or, at *Westminster* aforesaid, in the place aforesaid,) on the aforesaid —, (*the day of sitting*;) and that they be here, on the aforesaid —, (*the return of the distringas*;) to hear judgment upon the verdict of the inquest aforesaid, if, &c.

(§ 5.)
The like, for a
trial at the as-
sises.

Prac. 775. (a.)
777.

*Viccomes non
misit breve.*

(*Copy the issue as before, p. 242.; and proceed, on the same line, as follows*;) Therefore to try the issue (or, issues) aforesaid, between the parties aforesaid above joined, let a jury be made thereof: and the sheriff of the said county of — is commanded, that he cause to come here, on —, (*the last return of the term in which issue was joined*;) twelve good and lawful men of the body of his county, qualified according to law, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid; and the said sheriff did nothing thereupon, nor sent the writ: Therefore, as before, the sheriff of the said county of — is commanded, that he cause to come here, on —, (*the first return of the next term*;) twelve, &c. to recognize in form aforesaid; the same day is given to the parties aforesaid, here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriff of the county of — aforesaid sent here the writ of *venire facias* of the jurors aforesaid with a panel of the names of the same jurors, to the said writ annexed; and those jurors being called, come not: therefore the sheriff of the said county of — is commanded, that he distrain the jurors aforesaid, by their lands, &c. so that, &c. on —, (*the first return of the next term*;) unless the justices of our said lord the king assigned to hold the assizes in and for the said county of —, according to the form of the statute in such case made and pro-

vided, shall first come on — the — day of — next coming, at — in the said county, so that the inquest thereof before the said justices, at the assizes aforesaid, then and there distinctly and openly taken, may be had here, on the aforesaid —, (*the return of the distringas* :) And it is told the parties aforesaid, that they attend before the said justices, at the said assizes, on the aforesaid —, (*the commission day* :) and that they be here, on the aforesaid —, (*the return of the distringas*,) to hear judgment upon the verdict of the inquest aforesaid, if, &c.

(*Copy the issue as before, p. 242 ; and proceed, on the same line, as follows* :) Therefore to try the issue (*or, issues*) aforesaid, between the parties aforesaid above joined, let a jury be made thereof: And because the said issue (*or, issues*) ought to be tried by men of the next *English* county to the said county of —, and not elsewhere ; and because the county of — is the next *English* county to the said county of — ; therefore, for trying the issue (*or, issues*) aforesaid, between the parties aforesaid above joined, the sheriff of the said county of — is commanded, &c. (*as in the last*.)

And note, for *South Wales*, when the venue is laid in *Breconshire, Caermarthenshire, Cardiganshire, Glamorganshire, Pembrokeshire, or Radnorshire*, the causes are tried at *Hereford* ; and for *North Wales*, when the venue is laid in *Anglesea, Caernarvonshire, Denbighshire, Flintshire, Merionethshire, or Montgomeryshire*, the causes are tried at *Shrewsbury*.

In a county *palatine*, a *mittimus* is awarded to the proper officer, as before, pp. 245, 6. *mutatis mutandis*.

George the Fourth, &c. (14.) To our trusty and well-beloved justices, assigned to hold the assizes in the county of —, greeting: Being willing, for certain reasons, that the barons of our Exchequer at *Westminster* should by you be certified, whether one *C. D.* did undertake and promise, in manner and form as *A. B.* our debtor, in and by his bill, exhibited against the said *C. D.* in our court before the barons of our Exchequer at *Westminster*, hath alleged, or not ; and whether the said *C. D.* did undertake and promise, within six years next before the day of exhibiting the said bill of the said *A. B.* as the said *A. B.* in and by his replication to the plea of the said *C. D.* hath alleged, or not ; and whether the said *A. B.* is indebted to him the said *C. D.* as the said *C. D.* hath in and by his plea alleged, or not ; [*stating the substance of the issues to be tried specially, of which the above issues, on non assumpsit, non assumpsit infra sex annos, and a plea of set off, will serve as specimens : or, instead of stating them specially, the following general form may be used in all cases : "Whether a certain issue (or, issues), joined in our court before the barons of our Exchequer at Westminster, between A. B. our debtor plaintiff, and C. D. defendant, in a plea of trespass on the case, (or, as the plea is,) shall be found for the said A. B. or the said C. D."*] wherein the parties aforesaid have put themselves upon the inquest of the country ; as in the plea thereupon had at our said Exchequer, (the tenor of which, under the seal of our said Exchequer, we send you to inspect, in order to have your better information therein,) is more fully contained.

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(§ 6.)
The like, when
the venue is
laid in *Wales*.
Prac. 777.

(§ 7.)
The like, in a
county palatine.
Prac. 723.

(§ 8.)
Commission
from the Ex-
chequer, for
trial of a cause
at the assizes.
Prac. 747. 777.

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We therefore, fully relying on your fidelity and circumspection, assign you to inquire into all and singular the premises and their circumstances, by the oaths of lawful and honest men of the body of the county of — aforesaid, fully touching the truth : And therefore we command you, that you personally come to — in the county of — aforesaid, on —, and diligently inquire into all and singular the premises, in manner aforesaid ; so that the inquest thereof, distinctly and openly before you then and there taken, be had before the barons of our Exchequer at *Westminster*, on — ; for we have commanded our sheriff of the said county, that he cause to come before you, then and there, the jurors of the inquest aforesaid, to make that jury, in manner aforesaid : In witness whereof, we have caused these our letters to be made patent. Witness Sir *William Alexander* knight, at *Westminster*, the — day of — in the — year of our reign. Rose.

(§ 9.)
Mittimus, to the
county palatine
of *Lancaster*, or
Chester.

Prac. 777.
780, 81.

George the Fourth, &c. (14.) To our justices of our county palatine of *Lancaster*, (or, *Chester*,) greeting : The tenor of a certain record, in our court before us, (or, in *C. P.* before our justices, or, in the *Exchequer*, before the barons of our Exchequer) at *Westminster*, between *A. B.* (or, in the *Exchequer*, between *A. B.* our debtor) plaintiff and *C. D.* defendant, of a plea of trespass on the case, (or, as the plea is,) we send you inclosed in these presents ; commanding you, that having inspected the same, by our writ under the seal of our said county palatine, you command the sheriff of the same county, that he cause twelve free and lawful men of the body of the same county palatine, to come before you, at your next general session of assize, there to be holden after this writ shall be delivered to you, qualified according to law, by whom the truth of the matter in question may be the better known and inquired into, and who are in no wise akin either to the said *A. B.* or to the said *C. D.* to recognize and make a certain jury of the country between the said parties, of the plea aforesaid, because as well the said *C. D.* as the said *A. B.* between whom the matter in variance is, have put themselves upon that jury ; and also that you make such further process against the said jurors, so to be impanelled between the said parties, as is in this behalf used and commonly made, according to the law and custom of the said county palatine, until the issue (or, issues) aforesaid, between the said parties, shall be fully tried : And when the verification and issue (or, issues) aforesaid shall have been there made and tried before you, then do you send the record of the plaint aforesaid, together with every thing that shall have been done before you thereupon, and also this writ, to us (or, in *C. P.* to our justices, or in the *Exchequer*, to the barons of our Exchequer) at *Westminster*, at a certain day which you shall appoint to the said parties to be in our said court here, (or, in *C. P.* to be here,) to hear judgment thereupon. Witness, &c. (147.)

(*As in the last, to these words, "until the issue aforesaid between the said parties shall be fully tried," and then proceed as follows :*) And that in the writ of *venire facias*, to be issued by you in this cause, there be contained a clause, commanding the sheriff of the said county palatine, to have *six* or more of the first twelve of the jurors, so to be impanelled and returned, at the place in question, before the time of the trial of the said issue, (*or, issues,*) to wit, on the — day of — next ensuing; and that — on the part of the said *A. B.* and — on the part of the said *C. D.* shall attend the same day, and shew the matters in question to the said *six* or more of the first twelve of the said jurors: And when the verification and issue (*or, issues*) aforesaid, shall have been there made and tried, &c. (*as in the last.*)

(§ 10.)
The like, after
a rule for a view
by a special
jury.

Prac. 777.
780, 81.

George the Fourth, &c. (14.) To our chamberlain of our county palatine of *Chester*, or to his deputy there, greeting: The tenor of a certain record, which is depending in our court before us (*or, in C. P. before our justices, or, in the Exchequer, before the barons of our Exchequer*) at *Westminster*, between *A. B.* (*or, in the Exchequer, between A. B. our debtor*) plaintiff, and *C. D.* defendant, of a plea of trespass on the case, we send you inclosed in these presents; commanding you, that having inspected the same, by our writ, under the seal of our said county palatine duly to be made out, you cause the said record to be sent to the mayor of the city of *Chester*, and county of the same city, commanding the said mayor, that for trying the issue in the said record specified, the said mayor do command the sheriffs of the same city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall be delivered to him, twelve free and lawful men of the body of the city aforesaid, and county of the same city, qualified according to law, by whom, &c. and who are in no wise, &c. to recognize, &c. because as well, &c.: and lastly, that the said mayor make such further process against the said jurors, so to be impanelled between the said parties, as according to the law and custom of the said city, and county of the same city, is in this behalf used and commonly made, until the issue aforesaid, between the parties aforesaid, shall be fully tried: And when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send to you the said record of the plaint aforesaid, with every thing that shall have been then and there done and tried before him therein, so that you have the said record before us (*or, in C. P. before our justices, or, in the Exchequer, before the barons of our Exchequer*) at *Westminster*, and this writ, at a certain day which the said mayor shall appoint to the said parties to be in our said court here, (*or, in C. P. to be here,*) to hear judgment. Witness, &c. (147.)

(§ 11.)
The like, to the
city of *Chester*.

Prac. 777.
780, 81.

George the Fourth, &c. (14.) To the right reverend Father in God —, by divine permission, lord bishop of *Durham*, or to his chancellor there, greeting: The tenor of a certain record, in our court before us (*or, in C. P. before our justices, or, in the Exchequer, before the barons of our Exchequer*) at *Westminster*, between *A. B.* plaintiff and *C. D.* defendant,

(§ 12.)
The like, to the
county palatine
of *Durham*.

Prac. 777.
780, 81.

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of a plea of trespass on the case, (*or, as the plea is,*) we send you inclosed herein, commanding you, that having inspected the same, you further give in charge the said record, unto our justices within that liberty, so that the same justices may have it at our next court of pleas, to be holden at *Durham* aforesaid, within the said county, after the said record shall have been delivered to them, there to cause the verification and issue aforesaid to be made and tried, as the law shall direct in that behalf: And when the verification and issue aforesaid shall have been there made and tried, then do you send the record of the plaint aforesaid, together with every thing that shall have been done thereupon, and also this writ, to us (*or, in C. P. to our justices, or in the Exchequer, to the barons of our Exchequer*) at *Westminster*, at a certain day which the said justices shall appoint to the said parties, to be in our said court here, to hear judgment thereupon. Witness, &c. (147.)

(§ 13.)
Venire facias
juratores, in
K. B.

Prac. 778.

George the Fourth, &c. (14.) To the sheriff (or, coroner) of —, (or, to — and —, elisors duly appointed in this behalf,) greeting: We command you, that you cause to come before us at Westminster, on — next after —, (by bill; or, by original, “on — wheresoever we shall then be in England;” making the writ returnable on a particular return day, by bill, or by original, on a general return day, before the trial; and, if in a country cause, on the last particular or general return day of the term;) twelve good and lawful men of the body of your county, qualified according to law, by whom the truth of the matter may be the better known, and who are in no wise of kin either to A. B. the plaintiff, or to C. D. (inserting his addition, by original,) the defendant, to make a certain jury of the country between the parties aforesaid, of a plea of trespass on the case, (or, as the action may be,) because as well the said C. D. as the said A. B. between whom the matter in variance is, have put themselves upon that jury; and have there then (or, by original, “have there”) the names of the jurors, and this writ. Witness Charles Lord Tenterden, at Westminster, the — day of —, (the first day of the term in which the venire is returnable,) in the — year of our reign.*

Ellenborough.

(§ 14.)
The like, in
C. P. or Ex-
chequer.

Prac. 778.

George the Fourth, &c. (14.) To the sheriff, &c. (as in the last:) We command you, that you cause to come before our justices at Westminster, on —, (or, in the Exchequer, before the barons of our Exchequer at Westminster, on — next coming; making the writ returnable on a general return day before the trial; and, if in a country cause, on the last general return day of the term;) twelve good and lawful men, &c. (as in the last, calling the plaintiff, in the Exchequer, “our debtor,”) and have there (or, in the Exchequer, have there then) this writ. Witness Sir William Draper Best knight, (or, in the Exchequer, Sir William Alexander knight,) at Westminster, the — day of —, (the first day of the term in which the venire is returnable,) in the — year of our reign.

* Sec stat. 6 Geo. IV. c. 50. § 13.

(*As in the former writs, to these words, "to make a certain jury of the country between the parties aforesaid," and then as follows:*) as well to try the issue (*or, issues*) joined between the said *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the action may be,*) as to inquire against the said *E. F.* what damages the said *A. B.* hath sustained, as well by means of the not performing of certain promises and undertakings of the said *E. F.* as for his costs and charges by him about his suit in this behalf expended; whereupon it hath been considered, that the said *A. B.* ought to recover his damages against the said *E. F.*; because as well the said *C. D.* as the said *A. B.* between whom, &c. (*as in § 13.*)

— as well to try the issue (*or, issues*) joined between them, to be tried by the country, of a plea, &c. (*as in last,*) as to inquire what damages the said *A. B.* hath sustained, on occasion of the premises, whereupon the said other issue (*or, issues*) is (*or, are*) above joined between the parties aforesaid, to be tried by the record, in case the said last-mentioned issue (*or, issues*) shall happen to be found for the said *A. B.*; because as well, &c. (*as in § 13.*)

— as well to try the issue (*or, issues*) joined between them, to be tried by the country, of a plea, &c. (*as in § 13.*) as to inquire what damages the said *A. B.* hath sustained, on occasion of the premises, whereof the said parties have put themselves upon the judgment of the court, if judgment shall happen to be given thereupon for the said *A. B.* against the said *C. D.*; because as well, &c. (*as in § 13.*)

— as well to try the issue joined between them, of a plea of debt on demand upon a certain writing obligatory, as also, in case the said issue shall be found for the said *A. B.* to inquire of the truth of the breach (*or, breaches*) of the condition of the said writing obligatory, suggested by the said *A. B.* and to assess the damages sustained thereby; because as well, &c. (*as in § 13.*)

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you cause to come *anew* before, &c. (*as in a common venire.*)

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you distrain the several persons named in the panel hereunto annexed, (*or, if it be a special jury, "that you distrain E. F. of —, G. H. of —, &c." naming them as in the master's list,*) jurors summoned in our court before us, between *A. B.* plaintiff and *C. D.* defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any one by them, do lay hands on the same, until you shall have another command from us in that behalf; and that you answer to us for the issues of the same, so that you have their bodies before us at *Westminster*, on — next after —, (*or, by original, on —, where-soever we shall then be in England; making the disringas returnable on the first particular or general return day after the trial,*) or before our right trusty and well beloved *Charles* Lord *Tenterden*, our chief-justice assigned to hold pleas in our court before us, if he shall first come on

(§ 15.)

The like, when one defendant pleads, and another lets judgment go by default.

Prac. 781.

(§ 16.)

The like, when there are several issues, some to be tried by the country, and others by the record.

Prac. 781.

(§ 17.)

The like, when there are several issues, in fact and in law, and the jury are to assess contingent damages on the latter.

Prac. 781.

(§ 18.)

The like, when breaches are suggested, after plea of *non est factum*, on stat. 8 & 9 W. III. c. 11. § 8.

Prac. 781.

(§ 19.)

Venire facias de novo.

Prac. 780.

(§ 20.)

Distringas juratores, in K. B.

Prac. 778, 9.

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— the — day of —, (*the day of trial,*) at the Guildhall of the city of London aforesaid, [*or, if in Middlesex, at Westminster hall, in the county of Middlesex aforesaid; or, if at the assizes, “before our justices assigned to take the assizes in your county, if they shall first come on —, (the commission day of the assizes,) at —, (the place where the assizes are holden,) in your said county,”*] according to the form of the statute in such case made and provided, to make a certain jury between the said parties, of a plea of trespass on the case, (*or, as the plea is,*) and to hear their judgment thereupon of many defaults; and have there then (*or, by original, “have there”*) the names of the jurors, and this writ. Witness Charles Lord Tenterden, at Westminster, the — day of —, (*the return day of the venire, by bill, or quarto die post, by original,*) in the — year of our reign.

(§ 21.)

The like, on a trial by *proviso*.

Prac. 781.

(§ 22.)

Habeas corpora juratorum, in C. P.

Prac. 778, 9.

(*After the words, “many defaults,” insert the following proviso:*) Provided always, that if two writs shall come to you thereupon, then you execute and return one of them only; and have there, &c. (*as above.*)

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you have before our justices at Westminster, on —, (*the next general return after the trial,*) or before the right honourable Sir William Draper Best knight, our chief-justice assigned to hold pleas in our court of the Bench, by force of the statute in such case made and provided, if he shall first come on — the — day of —, (*the day of trial,*) at the Guildhall of the city of London, [*or, if in Middlesex, at Westminster hall, in your county; or, if at the assizes, before our justices assigned to take the assizes in your county, if they shall first come on — the — day of —, (the commission day of the assizes,) at —, (the place where the assizes are holden,) in your said county,*] the bodies of the several persons named in the panel annexed to this writ, (*or, if it be a special jury, the bodies of G. H. of —, &c. naming them as in the prothonotary's paper,*) jurors summoned in our court, before our justices at Westminster, between A. B. plaintiff, and C. D. late of — in your county defendant, of a plea of trespass on the case, (*or, as the plea may be,*) to make that jury; and have there this writ. Witness Sir William Draper Best knight, at Westminster, the — day of —, (*the quarto die post of the return day of the venire,*) in the — year of our reign.

(§ 23.)

*Distringas jura-
tores*, in the
Exchequer.

Prac. 778, 9.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you distrain the several persons named in the panel hereunto annexed, (*or, if it be a special jury, that you distrain E. F. of —, G. H. of —, &c. naming them as in the master's list,*) by all their lands and chattels in your bailiwick, so that neither they, nor any one by them, do lay hands on the same, until we shall command you otherwise therein, and that you answer to us for the issues of the same, so that you have their bodies before the barons of our Exchequer at Westminster, on — next coming, unless our trusty and well-beloved Sir William Alexander knight, chief-baron of our said Exchequer, according to the form of the statute in such case made and provided, on — the — day of — next coming, (*the day of sitting,*) at the Guildhall of the city of

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London, [or, if in *Middlesex*, at *Westminster* aforesaid, in the county of *Middlesex*; or, if at the assizes, unless our justices assigned to hold the assizes in your county, according to the form of the statute in such case made and provided, on — the — day of — next coming, (*the commission day of the assizes*), at — in your county,] first shall come, to make a certain jury between *A. B.* our debtor plaintiff, and *C. D.* defendant, in a plea of trespass on the case, (*or, as the plea is*), wherein the parties aforesaid have put themselves upon the inquest of the country; as in the plea thereupon had at our said Exchequer, is more fully contained: and have you there then the names of the jury aforesaid, and this writ. Witness Sir *William Alexander* knight, at *Westminster*, the — day of —, (*the return day of the venire*), in the — year of our reign.

Rose.

— on (*or, next after*) &c. (175.)

B. It is ordered, that the sheriffs of *London* (*or, in any other county*,
v. } the sheriff of the county of —) shall, at the expense of the plain-
D. } tiff, (*or, defendant*), attend the master with the books or lists, con-
 taining the names of the persons qualified to serve on juries in *London*,
 (*or, elsewhere*, with the freeholders' book of the said county;) and the
 master, in the presence of the attornies of both parties, shall name there-
 out forty-eight good and sufficient men, being so qualified, (*or, being free-*
 holders of the said county,) of whom twelve shall be struck out on each
 side, and the remaining twenty-four shall be returned by the said sheriffs,
 (*or, sheriff*), to try the issue (*or, issues*) between the parties. Upon the
 motion of Mr. *W. G. Adam*.

By the Court.

In the Common Pleas, &c. (176.)

B. It is ordered, at the instance of the plaintiff, (*or, defendant*), that
v. } the sheriff of — do, according to the form of the statute in such
D. } case made and provided, attend one of the prothonotaries of this court,
 with the book or list of the freeholders, (*or, in London*, “of the persons
 qualified to serve on juries in *London*;)” and that such prothonotary do,
 in the presence of the attornies or agents on both sides, name forty eight
 of those freeholders, (*or, persons*), out of which each party may strike
 twelve; and the sheriff of — shall impanel the remaining twenty four,
 to try the issue (*or, issues*) between the said parties.

On the motion of Serjeant *Blos-* }
set for the plaintiff, (*or, defendant*.) }

By the Court.

B. Upon the motion of Mr. *J. S. Jessopp*, of counsel for the plain-
v. } tiff, (*or defendant*), it is ordered, that the sheriff of the county of
D. } — do attend the deputy clerk of the pleas, with the book or list
 of the names of the freeholders of the said county, who shall name out of
 that list forty-eight freeholders, twelve of whom shall be struck out by
 each party, and twenty four, the remainder, returned for the trial of this
 cause.

By the Court.

Rose.

(§ 24.)
 Rule for a special jury, in
 K. B. before
 stat. 6 Geo. IV.
 c. 50.

Prac. 485.
 792, 3.

(§ 25.)
 The like, in
 C. P.
 Prac. 792, 3.

(§ 26.)
 The like, in the
 Exchequer.
 Prac. 792, 3.

(§ 27.)

Rule for special jury, in K. B. or C. P. on stat. 6 Geo. IV. c. 50.

Prac. 485. 792, 3.

(Title of rule, as in p. 175. § 24. K. B. or p. 176. § 25. C. P.)

B. } It is ordered, that the sheriff (*or*, sheriffs) of the county (*or*, city)
v. } of — shall, at the expense of the plaintiff, (*or*, defendant,) at-
D. } tend the master, (*in K. B.* ; *or*, *in C. P.* one of the prothonotaries of
this court,) with the jurors' book, and special jurors' list, for the said county,
(*or*, city,) pursuant to the statute in that case made and provided, and
the numbers referring to the names on such list, written on distinct pieces
of parchment or card, as required by the said statute ; and the master (*or*,
prothonotary) shall, pursuant to the said statute, nominate throughout forty
eight persons, being qualified to serve on special juries for the said county,
(*or*, city,) of whom twelve shall be struck out on each side, and the re-
maining twenty four shall be returned by the said sheriff, (*or*, sheriffs,) to
try the issue (*or* issues) joined between the parties. Upon the motion of Mr.
F. Moysey, (*in K. B.* ; *or*, of a serjeant, in C. P.) By the Court.

(§ 28.)

Rule for a view,
by a common
jury, in K. B.

Prac. 485. 796.
798.

B. } It is ordered, that a writ of *distringas juratores* issue, directed
v. } to the sheriff of the county of —, in which shall be contained a
D. } clause, commanding the said sheriff to have *six* or some greater
number of the jurors, to be impanelled and returned to try the issue be-
tween the parties, who shall be mutually consented to by the said parties
or their agents, at the place in question, before the time of the trial of the
said issue, to wit, upon — the — day of — ; and that — on the
part of the plaintiff, and — on the part of the defendant, shall attend
the same day, and shew the matters in question to the said *six* or some
greater number of the said jurors, who shall be consented to as aforesaid ;
and no evidence shall be given on either side, at the time of taking there-
of: And it is further ordered, that the plaintiff, (*or*, defendant,) his attorney
or agent, shall deposit in the hands of the under-sheriff of the said county,
the sum of — *l.* for payment of the expenses of the same view, pursu-
ant to the statute of the sixth year of king George the Fourth, Chapter 30.
§ 23. and the rule of this court, made in *Trinity* term, in the seventh year
of king George the Fourth ; and if such sum shall be more than sufficient
to pay the expenses of the said view, the surplus shall forthwith be re-
turned to the plaintiff's (*or*, defendant's) attorney ; and if such sum shall
not be sufficient to pay such expenses, the deficiency shall be forthwith
paid by the said plaintiff's (*or*, defendant's) attorney, to the said under-she-
riff, the plaintiff (*or*, defendant) hereby consenting, that in case no view
shall be had, or if a view shall be had by any of the said jurors, whether
they shall happen to be *six* or any particular number of the jurors who
shall be so mutually consented to as aforesaid, yet the said trial shall pro-
ceed, and no objection shall be made on account thereof, or for want of a
proper return to the said writ. Upon the motion of Mr. W. H. Prescod.

By the Court.

(§ 29.)

The like, by a
special jury, in
K. B.

Prac. 485. 796.
798.

B. } It is ordered, that a writ of *distringas juratores* issue, directed to
v. } the sheriff of the county of —, in which shall be contained a
D. } clause, commanding the said sheriff to have *six* or more of the first
twelve of the jurors, to be impanelled and returned to try the issue be-
tween the parties, at the place in question, before the time of the trial of

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the said issue, to wit, upon — the — day of — ; and that — on the part of the plaintiff, and — on the part of the defendant, shall attend the same day, and shew the matters in question to the said *six* or more of the first twelve of the said jurors ; and no evidence shall be given on either side, at the time of taking thereof : And it is further ordered, that the plaintiff's (*or* defendant's) attorney, or agent, shall deposit, &c. (*as in last*) : the plaintiff (*or*, defendant) hereby consenting, that in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be any of the twelve jurors who shall be first named in the said writ or not, yet the said trial shall proceed, and no objection shall be made on account thereof, or for want of a proper return to the said writ. Upon the motion of Mr. J. J. Dillon. By the Court.

George the Fourth, &c. (14.) To the sheriff of —, greeting : We command you, &c. (*as in a common distringas, to the words "many defaults," and then as follows :*) and in the mean time, according to the form of the statute in such case made and provided, we command you, that you have *six* or some greater number of the said jurors, who shall be mutually consented to by the said A. B. and C. D. or their agents, to take a view of the place in question, on — the — day of — ; and that the same jurors meet on the same day, at the house of —, in your county, and proceed from thence to view the said place, in the presence of — on the part of the plaintiff, and — on the part of the defendant, appointed by our court before us to shew the said place to such of the said jurors as shall come to view the same ; and in what manner you shall have executed this our command, make appear to us at Westminster, on the said day, (*or, by original, on the said day, where-soever, &c.*) and have there then (*or, by original, "have there"*) this writ. Witness Charles Lord Tenterden, &c. (282.)

— and in the mean time, according to the form of the statute in such case made and provided, we command you, that you have *six* or more of the first twelve of the said jurors, to take a view of the place in question, on — the — day of — ; and that the same jurors meet, &c. (*as before.*)

E. F. of — gentleman, attorney for the said plaintiff, maketh oath and saith, that the plaintiff's declaration in this cause is for a trespass, supposed to have been committed by the defendant, on the plaintiff's land, &c. (*stating shortly the nature of the cause of action :*) And ~~the~~ deponent further saith, that he is informed and verily believes, that the said plaintiff cannot safely proceed to the trial of this cause, without a view being first had, by some of the jury intended to be impanelled to try the issue in this cause.

Sworn, &c. (175.)

E. F.

— the — day of — .
B. } Upon reading the affidavit of E. F. gentleman, it is ordered, at the
v. } instances of the plaintiff, that a special writ of *habeas corpora jura-*
D. } *torum*, directed to the sheriff of —, according to the form of the
statute in that case made and provided, shall issue, by which the said she-

(§ 30.)
Distringas jura-
tores, when a
view is to be
had by a com-
mon jury, in
K. B.
Prac. 795, 6.
798.

(§ 31.)
The like, by a
special jury, in
K. B.
Prac. 795, 6.
798.

(§ 32.)
Affidavit, for a
view, in C. P.
Prac. 797.

(§ 33.)
Rule for a view,
in C. P.
Prac. 485.
797, 8.

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riff shall cause the place in question to be shewn to *six* or more of the jury, impanelled and returned to try the issue between the said parties, or as many more of them as he shall think fit to take a view of the place in question, on — the — day of — next, at — of the clock in the forenoon of the same day; which said jurors shall meet at the house of G. H. known by the name or sign of —, in —, who shall then and there be refreshed, at the equal charge of the said parties; and that — on the part of the plaintiff, and — on the part of the defendant, named in the said writ, shall shew the place in question to those jurors; but that no evidence shall be then and there given to the said jurors: And the sheriff of — shall, by a special return upon the said writ, certify to the justices of assize, that the said view was had, according to the command of the said writ.

On the motion of Serjeant *E. Lawes* for the plaintiff. By the Court.

(§ 34.)
*Habeas corpora
juratorum,
thereon.*

Prac. 798.

(*As before, p. 282. to the words "to make that jury," and then as follows:*) and in the mean time, according to the form of the statute in such case made and provided, we command you, that you have *six* of the first twelve of the said jurors, or as many more of them as you shall think fit, to take a view of the place in question, on —, at — (*as in the rule.*) in your county, and proceed from thence to view the said place, in the presence of — on the part of the plaintiff, and — on the part of the defendant, appointed by our court of the bench, to shew the said place to such of the said jurors as shall come to view the same; and that you make appear to our said justices at *Westminster*, on the said day, in what manner you shall have executed this our writ; and that you have there this writ. Witness Sir *William Draper Best* knight, &c. (282.)

— the — day of —.

(§ 35.)
Rule for a view,
by a special
jury, in the
Exchequer.

Prac. 798.

B. } Upon the motion of Mr. *A. Moysey*, of counsel for the plaintiff,
v. } (*or, defendant,*) it is ordered, that a *special distringas* for impanel-
D. } ling a jury, shall issue in this cause, directed to the sheriff of —, commanding that the aforesaid sheriff have *six* or more of the first twelve jurors impanelled to try the issue between the said parties, according to the form of the statute in that case made and provided, to view the place in question, between the parties aforesaid, on — the — day of — next coming; which said jurors shall meet at the house of —, known by the name or sign of —, in the town of —, in the county of —, at — of the clock in the forenoon of the same day; and there shall be refreshed, at the equal charge of the parties aforesaid; and that — on the behalf of the said plaintiff, and — on the behalf of the said defendant, shall shew the place in question and dispute between the said parties, to those jurors; but no evidence shall then and there be given them thereon, in any sort; and that the same jurors, who shall view the place in question as aforesaid, and appear, shall, before any drawing, be first sworn upon the jury, for the trial of this cause.

By the Court.

Rosc.

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, &c. (*as before, pp. 282, 3. to the words "more fully contained," and then as follows:*) We also command you, that you distrain *six* or more of the first twelve of the jury aforesaid, to view the place in question, between the parties aforesaid, on, &c. (*as in the last;*) which said jurors shall meet at, &c. (*id.*) and there shall be refreshed, &c. (*id.*;) and that — on the behalf of the said plaintiff, and — on the behalf of the said defendant, shall shew the place in question to those jurors; but no evidence shall then and there be given them; and have you there then the names of the jury aforesaid, and this writ. Witness Sir *William Alexander* knight, &c. (283.) Rose.

B. } It is ordered, that a view of the place in question be had by *six* or
v. } more of the first twelve of the jurors, to be impanelled and returned
D. } to try the issue between the parties, at the place in question, before
the time of the trial of the said issue; to wit, upon — the — day of
—; and that — on the part of the plaintiff, and — on the part of
the defendant, shall attend the same day, and shew the matters in question
to the said *six* or more of the first twelve of the said jurors; and no evidence shall be given on either side, at the time of taking thereof: And it is further ordered, that the plaintiff's (*or, defendant's*) attorney (*or, agent*) shall deposit in the hands of the under-sheriff of the county palatine of —, the sum of —*l.* for payment of the expenses of the said view, &c. (*as in § 28;*) the plaintiff (*or, defendant*) hereby consenting, that in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be any of the twelve jurors who shall be first named in the panel annexed to the writ of *venire facias*, to be issued in this cause, or not, yet the said trial shall proceed, and no objection shall be made on account thereof, or for want of a proper return to the said writ. Upon the motion of Mr. *A. Tucker.* By the Court.

(§ 36.)
Distingus juratores, thereon.
Prac. 798.

(§ 37.)
Rule for a view
by a special
jury, in a county
palatine, in
K. B.
Prac. 797, 8.

CHAP. XXXV.

EVIDENCE, and WITNESSES.

(§ 1.)

Notice to produce books, &c. in an action for goods sold, &c. on the part of defendant.

Prac. 802, &c.

IN the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

A. B. plaintiff,
and

C. D. defendant.

You are hereby required to produce to the court and jury, on the trial of this cause, all books, papers and writings, containing any entry, *memorandum* or minute, relating to the sale and delivery of the goods in question in this cause; or of any sales, payments, or other transactions in business, between the said plaintiff, or any person on his behalf, and the said defendant, during the months of — and —, in the year 18—; particularly the warehouse book, waste book, day book, invoice book, journal, cash book and ledger, during the same months; and also the invoice or bill of parcels, of any goods sold or delivered by the plaintiff, or his servants, to the defendant, on or about the — day of the said month of —, and all other invoices or bills of parcels, of any other goods sold or delivered by the plaintiff, or his servants, to the defendant; and also all bills of exchange, drawn by the plaintiff upon and accepted by the defendant, and particularly a certain bill of exchange, dated the — day of — 18—, drawn by the plaintiff upon and accepted by the defendant, for the sum of —*l.* payable to the order of the said plaintiff, at — after date; and also all other books, papers and writings whatsoever, containing any entry, *memorandum* or minute, in anywise relating to the matters in question in this cause. Dated the — day of — 18—.

Your's, &c.

G. H. defendant's attorney,
(agent, or, clerk in court.)

To Mr. *A. B.* the above-named plaintiff,
and to Mr. *E. F.* his attorney, (&c.)

(§ 2.)

The like, in an action by assignees of a bankrupt indorsee, against drawer of a bill of exchange.

Prac. 802, &c.

IN the King's Bench, &c. (*as in last.*)

L. K. and *L. M.* assignees of the estate
and effects of *A. B.* a bankrupt, plaintiffs,
and

C. D. defendant.

Take notice, that you are hereby required to produce and shew to the court and jury, at the trial of this cause, the day book, waste book, cash book, banker's book, ledger, and all and singular other the book and books of account of the said *A. B.* wherein are entered, or contained the entry

of any transaction or dealing of the said *A. B.* with the above-named defendant; and also the bill book or books of the said *A. B.* and all letters, *memorandums*, papers and writings, now in your custody or power, touching, concerning, or in any manner relating to the matters in dispute between the above-named parties; and also the consideration to the said defendant from the said *A. B.* for the bill of exchange mentioned in the declaration in this cause, said to bear date the — day of — 18—, and purporting to be drawn by the said defendant on one *R. S.* and said to be indorsed by the said defendant to the said *A. B.* before he became bankrupt. Dated, &c. (as in last.) Your's, &c.

G. H. defendant's attorney, (&c.)

To Mr. *E. F.* plaintiff's attorney, (&c.)

— (to wit.) *Subpœna* for *I. K.* (&c.) to testify, between *A. B.* plaintiff, and *C. D.* defendant, on the part of the plaintiff, (or, defendant.)

E. F. attorney.

— 18—.

(§ 3.)

Præcipe, for subpœna.

Prac. 805, &c.

(§ 4.)

Subpœna ad testificandum.

Prac. 805, &c.

George the Fourth, &c. (14.) To *E. F.* (&c.) greeting: We command you, that laying aside all and singular business and excuses, you, and every of you, be and appear in your proper persons, before our right trusty and well-beloved *Charles Lord Tenterden*, our chief-justice assigned to hold pleas in our court before us, (or, in *C. P.* before *Sir William Draper Best* knight, our chief-justice of the Bench; or, in the *Exchequer*, before *Sir William Alexander* knight, lord chief-baron of our court of Exchequer at *Westminster*;) at the *Guildhall* of the city of *London*, (or, in *Middlesex*, at *Westminster-hall* in the county of *Middlesex*; adding, in the *Exchequer* “in the place where our said court of Exchequer is usually holden;” or, at the *assizes*, before our justices assigned to take the *assizes* in and for the county of —, at — in the said county,) on — the — day of — instant, (or, next,) by — of the clock in the forenoon of the same day, to testify all and singular those things which you, or either of you, know, in a certain cause now depending in our court before us, (or, in *C. P.* before our justices, or, in the *Exchequer*, before the barons of our said court of Exchequer) at *Westminster*, between *A. B.* (or, in the *Exchequer*, between *A. B.* our debtor) plaintiff, and *C. D.* defendant, of a plea of trespass on the case, (or, as the action is,) on the part of the plaintiff, (or, defendant,) and on that day to be tried by a jury of the country; and this you, or any of you, shall by no means omit, under the penalty, upon each of you, of 100*l.* Witness, &c. (147.)

By virtue of a writ of *subpœna* to you directed, and herewith shewn unto you, you are personally to be and appear before *Charles Lord Tenterden*, chief-justice of his majesty's court of King's Bench, (or, in *C. P.* before *Sir William Draper Best* knight, his majesty's chief-justice of the court of Common Pleas; or, in the *Exchequer*, before *Sir William*

(§ 5.)

*Subpœna ticket.**

Prac. 806.

* This ticket is not now used; but a copy of the *subpœna* should be made for each witness, and delivered to him personally, a reasonable time before the trial. *Prac.* 806.

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XXXV.

Alexander knight, chief-baron of his majesty's court of Exchequer,) on — the — day of — instant, (*or, next,*) by — of the clock in the forenoon of the same day, at the *Guildhall, &c. (as in the subpoena,)* then and there to testify the truth, according to your knowledge, in a certain cause now depending, and there to be tried, between *A. B. (or, in the Exchequer, between A. B. his majesty's debtor)* plaintiff, and *C. D.* defendant, of a plea of trespass on the case, (*or, as the action is,*) on the part of the plaintiff, (*or, defendant*); and this you are not to omit, under the penalty of 100*l.* Dated the — day of —, in the — year of the reign of our sovereign lord *George the Fourth, &c. (217, 18.)* and in the year of our Lord 18—.

E. F. attorney (*or, clerk in court*)
for plaintiff, (*or, defendant.*)

By the Court (*or, Barons.*)

— (to wit.) *Subpæna* for *I. K.* to testify, and produce, &c. between *A. B.* plaintiff, and *C. D.* defendant, on the part of the plaintiff, (*or, defendant.*) *E. F.* plaintiff's (*or G. H.* defendant's)

attorney, (*or, agent.*)

— 18—.

(§ 6.)

Præcipe for
subpæna, with a
duces tecum, in
K. B.

Prac. 806.

(§ 7.)

Writ of *subpæna*,
with a *duces*
tecum.

Prac. 806.

George the Fourth, &c. (as in a common subpoena, to the day of trial, and then proceed as follows:) and also that you bring with you and produce, at the time and place aforesaid, a certain deed or instrument in writing, bearing date, &c. (*describing the thing to be produced,*) then and there to testify and shew all and singular those things which you or either of you know, or the said deed or instrument doth import, of and concerning a certain cause now depending, &c. (*as before, § 4.*)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

A. B. of —, the above-named plaintiff, maketh oath and saith, that this cause is set down for trial at the sittings after this present term, to be holden at the *Guildhall London, (or, at Westminster hall* in the county of *Middlesex, or, at the next assizes* to be holden in and for the county of —;) and that *E. F.* now a prisoner for debt, in custody of the marshal of the King's Bench prison, (*or, in his majesty's prison of the Fleet, or, in the county gaol of —, as the case may be,*) is and will be a material witness for this deponent, at the trial of this cause; And this deponent further saith, that he is advised and verily believes, that he cannot safely proceed to the trial thereof, without the testimony of the said *E. F.*; and that he the said *E. F.* is ready and willing to attend as a witness, at the trial of the said cause.

Sworn, &c. (175.)

A. B.

— (to wit.) *Habeas corpus* to testify, between *A. B.* plaintiff, and *C. D.* defendant, on the part of the plaintiff, (*or, defendant.*)

E. F. attorney.

— 18—.

(§ 9.)

Præcipe for
same.

Prac. 809.

(§ 10.)

Habeas corpus
ad testifican-
dum.

Prac. 809.

George the Fourth, &c. (14.) To the marshal of our prison of the Marshalsea, (*or, "warden of our prison of the Fleet," or, "To the sheriff of —," or other officer in whose custody the prisoner is,*) greeting: We command you, that you have the body of *E. F.* detained in our prison,

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under your custody, as it is said, under safe and secure conduct, before our right trusty and well-beloved *Charles Lord Tenterden*, our chief-justice assigned to hold pleas in our court before us, (or, in *C. P.* before Sir *William Draper Best* knight, our chief-justice assigned to hold pleas in our court of the Bench, or, in the *Exchequer*, before Sir *William Alexander* knight, lord chief-baron of our court of *Exchequer at Westminster*,) at the *Guildhall*, &c. (as in the subpoena,) on — the — day of — next, by — of the clock in the forenoon of the same day, then and there to testify the truth, according to his knowledge, in a certain cause now depending in our court before us, (or, in *C. P.* before our justices of the Bench aforesaid, or, in the *Exchequer*, before the barons of our said *Exchequer*,) and then and there to be tried, between *A. B.* (or, in the *Exchequer*, between *A. B.* our debtor) plaintiff, and *C. D.* defendant, of a plea of trespass on the case, (or, as the action is,) on the part of the said *A. B.* (or, the said *C. D.*;) and immediately after the said *E. F.* shall then and there have given his testimony before our said chief-justice, or chief-baron, (if in town; and, if in the country, before our said justices,) that you return him the said *E. F.* to our said prison, under safe and secure conduct; and have there then (or, in the *Common Pleas* or *Exchequer*, “have there,”) this writ. Witness, &c. (147.)

In the King's Bench, (or, *Common Pleas*.) *A. B.* plaintiff, &c. (185.)

(\$ 11.)

Affidavit, for rule, or order, to examine witnesses on interrogatories.

Prac. 810.

A. B. of —, the above-named plaintiff, maketh oath and saith, that this action is brought for, &c. (stating the cause of action;) and that issue was joined in this cause, in — term last, and notice of trial given for the — sittings within (or, sittings after) that term: And this deponent further saith, that *I. K.* is a material and necessary witness for this deponent in the said cause, as he this deponent is advised and verily believes; and that he this deponent cannot safely proceed to the trial thereof, without the testimony of the said *I. K.* And this deponent further saith, that the said *I. K.* is about to leave this kingdom, in a few days, for —, in parts beyond the seas, and is not expected to return for a considerable time, as he hath informed this deponent, and as this deponent verily believes; (or, that the said *I. K.* is now resident at —, in parts beyond the seas, or, is dangerously ill, &c. according to the fact.)

Sworn, &c. (175.)

A. B.

Upon reading the rule made in this cause, on — next after —, and by the consent of Mr. *W. W. Moncrieffe*, of counsel for the plaintiff, and Mr. *I. Whateley*, of counsel for the defendant; It is ordered, that the plaintiff (or, defendant) be at liberty to examine *de bene esse*, — one (or, — and — two or more) of his witnesses, who is (or, are) going abroad, upon interrogatories, to be exhibited to him (or, them,) before the lord chief-justice, or one other of the justices of this court; two days notice of the time and place of such examination being first given to the attorney for the defendant, (or, plaintiff;) and the defendant (or, plaintiff) is to be at liberty to cross-examine the said witness (or, witnesses:) And it is further ordered, that the interrogatories to be exhibited, and depo-

(\$ 12.)

Rule, to examine witnesses on interrogatories, in K. B.

Prac. 485. 488.
810.

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(§ 13.)

The like, on
motion to put
off the trial, in
C. P.

Prac. 488, 810.

sitions and cross-examinations taken, in manner aforesaid, be admitted to be read and given in evidence at the trial of this cause, saving all just exceptions. By the Court.

B. } Upon hearing, and by consent of counsel on both sides, it is or-
v. } dered, that the trial of this cause be postponed, until the sitting
D. } after next — term, on account of the absence of several material
witnesses for the defendant: And it is further ordered, that such of the
plaintiff's witnesses, as are going abroad in the mean time, be sworn be-
fore the lord chief-justice, or one other of the judges of this court, and be
examined *de bene esse*, before Mr. —, one of the secondaries of this
court, upon interrogatories to be exhibited for that purpose, on the plain-
tiff's attorney or agent giving two days previous notice thereof in writing,
to the defendant's attorney or agent; a copy of such interrogatories being
delivered at the time of such notice; and that the defendant be at li-
berty, at the time of such examination, to exhibit cross interrogatories,
for the examination of such witness or witnesses; and that such depo-
sitions and cross examinations, so respectively to be taken in manner afore-
said, shall and may be read and given in evidence on the trial of this
cause, provided such witnesses be absent from *England* at the time of such
trial, saving all just exceptions thereto: And by the like consent, it is
further ordered, that the costs of the said examinations, and all other costs
incident thereto, shall be allowed as costs in this cause; the defendant by
his counsel hereby undertaking to admit, on the trial of this cause, the
execution of the deed poll or policy of assurance in the declaration men-
tioned, and the interests as averred in the declaration. By the Court.

On the motion of Serjeant *E. Lawes* for the }
plaintiff, Serjeant *Andrews* for the defendant. }

B. } Upon reading the affidavit of *A. B.* and upon hearing the attor-
v. } nies or agents on both sides, and with their consent, I do order, that
D. } the plaintiff be at liberty, &c. (*as in* § 12.)

In the Common Pleas.

B. } Upon hearing the attornies or agents for the plaintiff and de-
v. } fendant, and by their consent, I do order, that the plaintiff and de-
D. } fendant respectively shall be at liberty to examine a witness or wit-
nesses upon interrogatories; and the opposite party shall be at liberty to
cross examine such witness or witnesses upon interrogatories, at *Cork* or
elsewhere in *Ireland*, before *E. F.* of, (&c.) and *G. H.* of, (&c.) commis-
sioners named on behalf of the plaintiff, and *I. K.* of, (&c.) and *L. M.*
of, (&c.) commissioners named on behalf of the defendant, or any two of
them, so as that one of the commissioners of either party respectively,
shall be present at such examination; but if the commissioners for either
of the said parties, neglect or decline to attend a second appointment for
that purpose, then two of the commissioners of the other party may pro-
ceed on the examination, and so as that each of the said parties shall, *four*
days previously thereto, give notice in writing to the commissioners of the
other party, or cause such notice to be left at their residence, of the time
and place of such intended examination; and shall also forthwith deliver

(§ 14.)

Judge's order
for the above
rule, in vacation.
Prac. 810.

(§ 15.)

Chief-justice's
order, in C. P.
for examining
and cross ex-
amining wit-
nesses, before
commissioners
in *Ireland*.

Prac. 810.

to the attornies of the opposite party, a copy of the interrogatories intended to be exhibited to the said witness or witnesses; the plaintiff and defendant respectively being at liberty to cross examine the witness or witnesses produced by the other: And by the like consent, I do further order, that the said witness or witnesses shall be sworn before a judge of the court of Common Pleas in *Ireland*, or a commissioner of the same court: And by the like consent, I further order, that the examinations and depositions of such witnesses shall be returned to my chambers, under the seals of the commissioners before whom the same shall be taken; and that such depositions, or an office-copy thereof, shall be read and given in evidence on the trial of this cause, by either of the said parties, saving all just exceptions: And, by the like consent, I do further order, that the costs of such interrogatories, examinations and depositions, and all other costs incidental thereto, shall be costs in this cause. Dated the — day of — 18—.

W. D. Best.

B. } Upon reading a rule made in this cause, on — last, the affidavit
v. } of A. B. the plaintiff in this cause, and on hearing, and by consent
D. } of counsel on both sides; It is ordered, that the said rule be discharged; and that the trial of this cause be respited, until the next term: And it is further ordered, that commissions, at the instance and on the prosecution of the plaintiff, as well as the defendant in this cause, to be respectively settled and approved of by one of the prothonotaries of this court, shall be issued forth out of this court, directed to certain commissioners, to be respectively named as well on the part of the plaintiff as on the part of the defendant, and to be respectively approved of by one of the prothonotaries of this court, in case the said parties shall happen to differ about the same, for the examination and examinations *de bene esse*, before such commissioners respectively, under such respective commissions, of such of the plaintiff's and defendant's witnesses respectively, as reside at the island of — respectively, upon interrogatories to be exhibited to such witnesses respectively, under such respective commissions; and that the plaintiff, and also the defendant, shall and may be at liberty, at the time of such last-mentioned examination or examinations respectively, to exhibit cross interrogatories for the examination or examinations of such respective witness or witnesses respectively, before such respective commissioners: as aforesaid, if either the plaintiff, or the defendant, shall so think fit; and that the examinations and depositions of such witnesses or witness, so as aforesaid to be respectively taken, as well on the part of the plaintiff as of the defendant, shall be respectively read and given in evidence on the trial of this cause, saving all just exceptions: And it is further ordered, that at the respective times of issuing such commissions respectively as aforesaid, the plaintiff's and defendant's attornies or agents shall deliver to each other, copies of the respective interrogatories under the respective commissions, on which the plaintiff and defendant shall examine their witnesses respectively; and that in such commissions respectively, there shall be a clause inserted, directing the commissioners on the respective parts of the plaintiff and the defendant, or such of them

(§ 16.)
Rule for a commission, to examine witnesses abroad, in C. P.
Prac. 488. 810.

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XXXV.

as the said prothonotary shall approve of and appoint, in case the said parties shall differ about the same, to give ——— days previous notice of the execution of such commissions respectively, to the commissioners on the behalf of the plaintiff and defendant, or such one or more of them as the said prothonotary shall approve of and appoint, in case the said parties shall differ about the same; and such notice shall accordingly be given, before the execution of such commissions respectively, by the plaintiff's commissioners or commissioner, to the defendant's commissioners or commissioner, and by the defendant's commissioners or commissioner, to the plaintiff's commissioners or commissioner, according to such approval and appointment of the said prothonotary as aforesaid: And it is further ordered, that such commissions shall be respectively executed in the presence of two of the commissioners at least, to be respectively named in the said commissions respectively; which said commissions respectively shall be returnable on the ——— day of ——— now next ensuing; and that such commissions respectively, and the interrogatories, depositions and cross examinations respectively to be taken in manner aforesaid, under the same respectively, shall be transmitted, under the respective seals of such commissioners, who shall respectively take the same in manner aforesaid, without delay, to the secondaries of this court; and shall without further proof be read and given in evidence, upon the trial of the issue in this cause, saving all just exceptions thereto as aforesaid. By the Court.

On the motion of Serjeant *E. Lanes* for
 plaintiff, Serjeant *Andrews* for the de- }
 fendant.

Griffith.
 Entered.

(§ 17.)
 Commission
 thereon.

Prac. 811.

George the Fourth, &c. (14.) To — — and ———, greeting: Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you, any two or more of you, full power and authority, diligently to examine all witnesses whatsoever, upon certain interrogatories to be exhibited to you, as well on the part of *A. B.* plaintiff, as on the part of *C. D.* defendant, in a certain plea of trespass on the case, (*or, as the plea is,*) now depending between them, in our court before our justices of the bench at *Westminster*; and therefore we command you, any two or more of you, that on or before the ——— day of ——— now next ensuing, at a certain day and place, or certain days and places, to be appointed by you for that purpose, you cause the said witnesses to come before you, at ———, and then and there examine each of them apart, upon the said interrogatories, on their respective corporal oath, first taken before any two or more of you, upon the Holy Evangelists, according to the form of the oath first indorsed hereupon; and that you do take such their examinations, and reduce them into writing, on paper or parchment; and when you shall have so taken them, you are to send the same, without delay, to our justices of our said court of the bench at *Westminster*, closed up, under your seals, or the seals of any two or more of you, distinctly and plainly set, together with the said interrogatories, and this writ, to be filed of record in the *Secondaries* office of the same court, with ——— Esquire, one of the secondaries of the same court: And

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we further command you, and every of you, that before you act in, or be present at the swearing or examining any witness or witnesses, you severally take the second oath hereupon indorsed; and we give you, any two or more of you, full power and authority, jointly or severally, to administer such oath to the rest, or any other of you, upon the Holy Evangelists: And we further command, that all and every the clerk or clerks employed in taking, writing, transcribing, or ingrossing the deposition or depositions of witnesses, to be examined by virtue of these presents, shall before he or they be permitted to act as clerk or clerks as aforesaid, severally take the third oath hereupon indorsed; and we also give you, or any two or more of you, full power and authority, jointly and severally, to administer such oath to such clerk or clerks, upon the Holy Evangelists: And we further command, that previous to the execution of this commission, which is granted by us at the instance of the plaintiff and defendant, and by them prosecuted, the said — and — commissioners who have been named, approved of and appointed on the behalf of the plaintiff and defendant, shall give or cause to be given — days notice in writing, of such execution of this commission, under their respective hands, to the said — and —, respectively commissioners who have been named, approved of, and appointed on the behalf of the plaintiff and defendant, by delivering such notice to the said — and — personally, or by leaving such notice for them or him, at their or his then respective place or places of abode in —, if they, or either of them, are or is then respectively resident in —; but if they or either of them are, or is not then resident in —, then by leaving such notice at the last place or places of abode there, of such of them the said — and —, who are or is not resident in —, — days at the least previous to and before the execution of this commission; and in and by such notice shall state the place, day and hour, whereat and wherein this commission shall be executed. Witness Sir *William Draper Best* knight, at *Westminster*, the — day of — in the — year of our reign.

You are true answer to make to all such questions as shall be asked you, upon the interrogatories now produced and shewn to you, without favour or affection to either party: and therein you shall speak the truth, the whole truth, and nothing but the truth. So help you God.

You shall, according to the best of your skill and knowledge, truly and faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses, produced and examined by virtue of the commission within-written, upon the interrogatories now produced and left with you.

So help you God.

You shall truly, faithfully, and without partiality, to any or either of the parties in this cause, take and write down, transcribe and ingross the depositions of all and every witness and witnesses produced before and examined by the commissioners, or any of them, named in the commission within written, as far forth as you are directed and employed by the

(§ 18.)
The witnesses
oath.

Prac. 811.

(§ 19.)
The commis-
sioners' oath.

Prac. 811.

(§ 20.)
The clerks' oath.
Prac. 811.

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(§ 21.)
Interrogatories,
for plaintiff.

Prac. 811.

said commissioners, or any of them, to take down, write, or ingross the said depositions. So help you God.

INTERROGATORIES to be administered to *E. F.* a witness, to be produced, sworn and examined, on the part and behalf of *A. B.* plaintiff, in a certain cause now depending in his majesty's court of King's Bench (or Common Pleas, or Exchequer) at *Westminster*, against *C. D.* defendant, before —, one of his said majesty's justices of the same court, (or, in the *Exchequer*, before one of the barons of his said majesty's *Exchequer*,) pursuant to a rule of the said court, made on — next after —, in the — year of the reign of king *George the Fourth*, (or, if under an order, say, "pursuant to an order of the said justice, (or, baron,) made the — day of — 18—.")

First: Do you know the parties, plaintiff and defendant, in the title of these interrogatories named, or either and which of them; and how long have you known them, or either and which of them? Declare the truth, and your knowledge herein.

Secondly: Look upon the deed or writing now produced and shewn to you, at this the time of your examination, marked with the letter (*A.*) and purporting to be an indenture of lease, &c. (*deed or writing produced*,) bearing date, &c. (*date of same*.) Was such deed or writing sealed and delivered in your presence, and by whom? Were you a subscribing witness to the sealing and delivery thereof? And is the name *E. F.* indorsed thereupon, and appearing as the name of one of the witnesses, of your own hand-writing? Do you know the hand-writing of *G. H.* appearing to be the other witness to the said deed or writing? Is the name *G. H.* indorsed thereupon, of the proper hand-writing of the said *G. H.*? And did you see him set and subscribe his name as a witness thereto? Declare, &c.

Lastly: Do you know of any other matter or thing, or have you heard, or can you say any thing, touching the matters in question in this cause, that may tend to the benefit and advantage of the said plaintiff, besides what you have been interrogated unto? If yea, declare the same, fully and at large, as if you had been particularly interrogated thereto.

C. H. Runnington.

INTERROGATORIES to be administered to *E. F.* a witness, to be produced, sworn and examined, on the part and behalf of *C. D.* the defendant, in a certain cause now depending against him, in his majesty's court of King's Bench (Common Pleas, or Exchequer) at *Westminster*, at the suit of *A. B.* plaintiff, before, &c. (*as in last*.)

INTERROGATORIES to be administered, by way of cross examination, to *E. F.* a witness, &c. (*as before*.)

INTERROGATORIES to be administered to witnesses, to be produced, sworn and examined, at *Cork*, or elsewhere in *Ireland*, on the part and behalf of *C. D.* the defendant,

(§ 22.)
Title of inter-
rogatories, for
defendant.

Prac. 811.

(§ 23.)
The like, to cross
examine a wit-
ness.

Prac. 811.

(§ 24.)
The like, for
the examination

in a certain cause now depending in his majesty's court of Common Pleas at *Westminster*, at the suit of *A. B.* plaintiff, before *E. F.* of, (&c.) and *G. H.* of, (&c.) commissioners named on behalf of the said plaintiff; and *J. K.* of, (&c.) and *L. M.* of, (&c.) commissioners named on behalf of the said defendant, or any two of them, so as that one of the commissioners of either party respectively shall be present, pursuant to an order of the right honourable Sir *William Draper Best* knight, chief-justice of the same court, made the — day of — 18—.

of witnesses, before commissioners in *Ireland*.

Prac. 811.

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)

A. B. of —, the above-named plaintiff, maketh oath and saith, that this action, which is now pending in this honourable court, was commenced in — term last, for a cause of action which arose in the province of — in *India*: And this deponent further saith, that there are several persons now residing in the said province, who are material and necessary witnesses for this deponent in the said cause; and without whose testimony he is advised and verily believes, that he cannot proceed with safety to the trial thereof.

(§ 25.)
Affidavit, for obtaining writ, in nature of *mandamus*, to examine witnesses in *India*, on stat. 13 Geo. III. c. 63. § 44.
Prac. 813. (g.)

Sworn, &c. (175.)

A. B.

B. } Upon reading the affidavit, (&c.) It is ordered, that a writ, in the
v. } nature of a *mandamus*, issue, directed to — chief-justice, and
D. } — and —, judges of his majesty's supreme court of judicature at *Fort William* in *Bengal*, in the *East Indies*, commanding them the said chief-justice and judges, to hold a court for examination of the witnesses, on the part of the plaintiff in this cause, and for receiving other proofs therein, pursuant to the statute made in the thirteenth year of the reign of his late majesty king *George* the Third; and to perform all such matters and things, as by the directions of the said statute are required: And it is further ordered, that the depositions taken in manner aforesaid, be transmitted, under seal of the said court, to — Esquire, clerk of the rules and orders on the plea side of his majesty's court of King's Bench at *Westminster*. Upon the motion of Mr. *C. C. Pepys*. By the Court.

(§ 26.)
Rule of court thereon.
Prac. 486. 813.
(g.)

George the Fourth, &c. (14.) To — chief-justice, and — and — judges of his majesty's supreme court of judicature at *Fort William* in *Bengal*, in the *East Indies*, and to every of them, greeting: Whereas *A. B.* hath lately, in our court before us at *Westminster*, commenced and prosecuted a certain action at law against *C. D.* for the recovery of his damages, by him alleged to be sustained, on occasion of the non-performance of certain promises and undertakings, heretofore alleged to have been made by the said *C. D.* to the said *A. B.*; and which said action is yet depending in our said court before us at *Westminster*: And whereas, on the part of the said *A. B.* (or, *C. D.*) we have been given to understand and be informed, that the cause of the said action, so commenced, prosecuted and depending as aforesaid, arose in the kingdom or province of *Bengal*, in *India*, within the jurisdiction of your court, and that the said *A. B.* (or, *C. D.*) is unable conveniently to proceed to the trial of the said cause, by

(§ 27.)
Mandamus thereon.
Prac. 813, 14.

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reason of the difficulty of proving in this kingdom, divers matters and things relating to the said cause, which have been done and arisen in *India*, within the jurisdiction of your said court: And whereas the said *A. B. (or, C. D.)* hath besought us to award to him our writ in this behalf, to you the chief-justice and judges of the said supreme court of judicature to be directed, for the examination of witnesses resident within the jurisdiction of your said court, according to the form and effect of the statute in such case made and provided: We therefore, being willing that the said *A. B. (or, C. D.)* should have all proper benefit of the provisions of the said statute, and that due and speedy justice should be done in the premises, do command you the said chief-justice, and judges of the said supreme court of judicature, that you do, with all convenient speed, hold a court for the examination of witnesses in this cause; and that you do perform all such other matters and things in this behalf, as by the directions of the said statute, you are required to do and perform: And how you shall have executed this our writ, make known to us at *Westminster*, with all convenient speed; at the same time returning to us the examinations, which you shall have taken by virtue of this our writ, together with this writ. Witness, &c. (148.)

CHAP. XXXVI.

SUBMISSIONS to ARBITRATION, and AWARDS; and PROCEEDINGS thereon.

B. } UPON hearing Mr. *E. Tickell*, of counsel for the plaintiff, and
 v. } Mr. *D. Rogers*, of counsel for the defendant, and by their con-
 D. } sent, It is ordered, that all matters in difference in this cause, (*or, if*
it be a general reference, all matters in difference between the parties in
 this cause,) be referred to the award, order, arbitrament, final end and de-
 termination of *E. F.* of —, and *G. H.* of —, arbitrators nominated
 by the said plaintiff and defendant, and of such third person as the said
E. F. and *G. H.* shall, by a *memorandum* under their hands, to be in-
 dorsed on these presents, before they proceed on the said arbitration, no-
 minate and appoint, or of any two of them, so as they the said arbitrators,
 or any two of them, shall make and publish their award in writing, of
 and concerning the matters in question, on or before the — day of —
 next, or on or before such further or ulterior day, as the said arbitrators,
 or any two of them, shall ultimately appoint, and signify in writing un-
 der their hands, to be indorsed on these presents, and this court, or one of
 the judges thereof, shall order; and that the said parties shall and do per-
 form, fulfil and keep such award, so to be made by the said arbitrators, or
 any two of them, so named as aforesaid: And it is further ordered, by
 and with such consent as aforesaid, that the costs of this cause, and of
 the said reference, or in any manner relative thereto, shall abide the event
 of the said award or umpirage: And it is likewise ordered, by and with
 such consent as aforesaid, that the plaintiff and defendant respectively, shall
 or may be examined upon oath, to be sworn before the lord chief-justice,
 or some other justice of this court, if thought necessary by the said arbi-
 trators, or any two of them; and shall and do produce before the said ar-
 bitrators, or any two of them, all books, papers and writings, touching
 and relating to the matters in difference between the said parties, as the
 said arbitrators, or any two of them, shall think fit; and that the wit-
 nesses of the plaintiff and defendant respectively, shall be examined upon
 oath, to be sworn before the said lord chief-justice, or some other justice
 of this court: And it is likewise ordered, by and with such consent as
 aforesaid, that neither the plaintiff nor defendant shall prosecute or bring
 any action or suit, in any court of law or equity, against the said arbi-
 trators, or any or either of them, nor bring nor prefer any bill in equity
 against each other, of and concerning the premises in question, so as afore-

(§ 1.)
 Rule of court,
 for referring a
 cause to arbi-
 tration, in K. B.
Prac. 48b. 819.

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said referred: And it is further ordered, by and with such consent as aforesaid, that if either party shall by affected delay or otherwise, wilfully prevent the said arbitrators, or any or either of them, from making an award, he or they shall pay such costs to the other, as this court shall think reasonable and just.

By the Court.

(§ 2.)
Judge's order
of reference, to
a sole arbitra-
tor, in K. B.
Prac. 819.

B. } Upon hearing the attornies or agents on both sides, and by their
v. } consent, I order, that all matters in difference in this cause be re-
D. }ferred to the award, order, arbitrament, final end and determination
of *E. F.* of —, so as he shall make and publish his award in writing,
of and concerning the premises, on or before the — day of — next:
And, by the like consent, I order, that the costs of this action shall abide
the event of his award; and that the costs of such reference shall be in
the discretion of the said arbitrator: And, by the like consent, I order,
that the parties, and their respective witnesses, may be examined by the
said arbitrator upon oath, to be sworn before any judge of the court of
King's Bench, or a commissioner for taking affidavits in the said court;
and that the parties shall produce before the said arbitrator, all books,
papers and writings, in their custody or power, touching the matters in
question: And, by the like consent, I order, that if either of the said par-
ties shall wilfully prevent the said arbitrator from making an award, such
party shall pay such costs to the other, as the said arbitrator shall think
just: And, by the like consent, I do further order, that the plaintiff shall
be entitled to enter up judgment, as of next term, for such sum (if any,)
as shall be awarded due to the plaintiff, by the said arbitrator: And, by
the like consent, I do lastly order, that this order shall be made a rule of
the court of King's Bench, if the same court shall so please. Dated the
— day of — 18—.

Tenterden.

(§ 3.)
The like, more
special, to se-
veral arbitra-
tors, in K. B.
Prac. 819.

B. } Upon hearing the attornies on both sides, and by their consent, I
v. } do order, that all matters in difference between the parties in this
D. } cause, be referred to the award, order, arbitrament and determination
of *E. F.* of —, and *G. H.* of —, and of such third person as the said
E. F. and *G. H.* shall, by a memorandum in writing under their hands, to
be indorsed hereon, nominate or appoint in this behalf, or of any two of
them, so as they the said *E. F.* and *G. H.* and such third person so to be
nominated or appointed as aforesaid, or any two of them, shall and do
make and publish their award in writing, under their hands, ready to be
delivered to the said parties in difference, or either of them, if they or
either of them shall require the same, on or before the — day of —
next, or on or before such further or ulterior day as the said arbitrators,
or any two of them, shall appoint and signify in writing under their hands,
to be indorsed on these presents, and his majesty's court of King's Bench,
or one of the judges thereof, shall order: And, by the like consent, I do
also order, that the said parties in difference shall and do respectively pro-
duce and leave with the said arbitrators, or as they or any two of them
shall direct or appoint, all books, papers, writings, vouchers or documents,
in the custody, possession or power of either of the said parties in differ-
ence, relating to the matters hereby to them referred, necessary in the

judgment of the said arbitrators, or any two of them, for enabling them to judge and decide concerning the premises; and that the said arbitrators, or any two of them, shall be, and they are hereby empowered and authorized, if they or any two of them shall think fit, or if required by either of the said parties, to examine all or any person or persons produced as a witness or witnesses by either party, upon oath, or solemn affirmation if Quakers, to be taken before a judge of his majesty's court of King's Bench at *Westminster*, or a commissioner of the same court: And also that the said arbitrators hereby appointed, or any two of them, shall be at liberty to proceed *ex parte*, in case of the non-attendance of either of the said parties in difference, or of their witnesses, after six days previous notice in writing, under the hands of the said arbitrators, or any two of them, given to the said parties in difference respectively, or left at his or their then last known respective place or places of abode, notifying the time and place of meeting, to proceed in the said reference: And, by the like consent, I do further order, that neither of the said parties in difference shall bring or prosecute any action or suit, at law or in equity, nor file any bill or bills in equity, against the other, or against the said arbitrators, or any of them, touching the matters hereby referred, or agreed to be referred as aforesaid; and that the costs of the action, commenced against the said *C. D.* shall abide the event of the said award; and that the costs of the said reference, and the award to be made in pursuance thereof, and all other costs and charges incidental thereto, shall be in the discretion of the said arbitrators, who shall direct and award, by and to whom, and in what manner, the same shall be paid: And by the like consent, I further order, that in case the said arbitrators shall make their award before the said — day of —, and in favour of the plaintiff, any sum or sums of money that may be found due to the plaintiff, shall not be awarded to be paid before that day: And, by the like consent, I further order, that this order shall and may be made a rule of his said majesty's court of King's Bench at *Westminster*, if the same court shall so please. Dated, &c. (*as in the last.*) *Tenterden.*

London, } At the sitting of *nisi prius*, held at *Guildhall* in and for the
to wit. } city of *London*, on — the — day of — in the year
of our Lord 18—, and in the — year of the reign of our
sovereign lord *George* the Fourth, now king of the united
kingdom of *Great Britain* and *Ireland*, &c. before the right
honourable *Charles* Lord *Tenterden*, chief-justice of our lord
the king, assigned to hold pleas before the king himself.

(§ 4.)
Order of re-
ference, at *nisi*
prius, in K. B.
Prac. 819.

B. } It is ordered by the court, by and with the consent of the plaintiff
v. } and defendant, their counsel and attornies, that the last jury-man
D. } sworn and impanelled in this cause, be withdrawn out of the panel;
and that all matters in difference, between the said parties, be referred to
the award, order, arbitrament, final end and determination of *E. F.* of,
(&c.) so as he shall make and publish his award in writing, of and con-

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cerning the premises in question, on or before the — day of — term now next ensuing; and that the said parties shall and do perform, fulfil and keep such award, so to be made by him the said arbitrator as aforesaid: And it is also ordered, by and with such consent as aforesaid, that the costs of the said cause shall abide the event and determination of the said award; and that the costs of the said reference shall be in the discretion of the said arbitrator, who shall direct and award by whom, and to whom, and in what manner the same shall be paid: And it is likewise ordered, by and with such consent as aforesaid, that the plaintiff and defendant respectively shall be examined upon oath, to be sworn before the said lord chief-justice, or some other justice of the same court of our lord the king before the king himself, or before a commissioner appointed for taking affidavits in the country, if thought necessary by the said arbitrator; and do produce before the said arbitrator, all books, papers and writings, touching and relating to the matters in difference between the said parties, as the said arbitrator shall think fit; and that the witnesses of the plaintiff and defendant respectively shall be examined upon oath, to be sworn before the said lord chief-justice, or some other justice of the same court of our said lord the king before the king himself, or before such commissioner as aforesaid: And it is likewise ordered, by and with such consent as aforesaid, that neither the plaintiff nor the defendant shall prosecute or bring any action or suit, in any court of law or equity, against the said arbitrator, nor bring nor prefer any bill in equity against each other, of and concerning the premises in question, so as aforesaid referred: And it is further ordered, by and with such consent as aforesaid, that if either party shall, by affected delay or otherwise, wilfully prevent the said arbitrator from making an award, he shall pay such costs to the other, as the said court of our said lord the king before the king himself, shall think reasonable and just: And lastly, it is ordered, by and with such consent as aforesaid, that the said court of our said lord the king before the king himself may be prayed, that this order may be made a rule of the same court.

(§ 5.)
Arbitration
bond, on a re-
ference to two,
with a clause of
umpirage.

Prac. 820, 21.

Know all men by these presents, that I *C. D.* of —, am held and firmly bound to *A. B.* of —, in — pounds, of good and lawful money of *Great Britain*, to be paid to the said *A. B.* or his certain attorney, executors, administrators or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents: Scaled with my seal. Dated the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

The condition of this obligation is such, that if the above bounden *C. D.* his heirs, executors and administrators, and every of them, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbi-

trament, final end and determination of *E. F.* of —, and *G. H.* of —, arbitrators indifferently named, elected and chosen, as well by and on the part and behalf of the above bounden *C. D.* as of the above-named *A. B.* to arbitrate, award, order, judge and determine, of and concerning all and all manner of action and actions, cause and causes of action, suits, bills, bonds, specialties, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, both at law and in equity, at any time or times heretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending, by and between the said parties, so as the said award be made in writing, on or before the — day of — now next ensuing: but if the said arbitrators do not make such their award, of and concerning the premises, by the time aforesaid, then if the said *C. D.* his heirs, executors and administrators, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, umpirage, final end and determination of *J. K.* of —, a person indifferently named and chosen as an umpire between the said parties, of and concerning the premises, so as the said umpire do make his award and umpirage in writing, of and concerning the premises, on or before the — day of — now next ensuing; then this obligation to be void, or else to remain in full force and virtue: And the said *C. D.* doth consent and agree, that his submission to the award or umpirage above-mentioned, shall be made a rule of his majesty's court of King's Bench at *Westminster*, pursuant to the statute in such case made and provided.

G. D.

Sealed, &c. (90.)

In the King's Bench, &c. (185.)

L. M. of —, maketh oath and saith, that he was present at the time of signing and sealing the bond or obligation hereunto annexed; and that *C. D.* of —, therein mentioned, did duly sign, seal, and as his act and deed deliver, the said bond, in the presence of this deponent; and that the name *C. D.* set and subscribed to the said bond, is of the proper hand-writing of the said *C. D.* and that the name *L. M.* set and subscribed as the witness thereto, is of the proper hand-writing of this deponent.

L. M.

Sworn, &c. (175.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (*id.*)

I. K. of —,

L. M. of —, (&c.)

On the — day of — 18—, the above — witnesses were severally sworn in court, (or, before me, at my chambers, in *Serjeants' Inn, Chancery Lane*), to give evidence before the arbitrators, to whom this cause stands referred.

I. K.

L. M. (&c.)

By the Court: (or, if sworn before
a judge, the judge's name.)

(§ 6.)
Affidavit of
the due execution
thereof.
Prac. 836.

(§ 7.)
Jurat of witnesses, to be
examined before
arbitrators.
Prac. 825.

B. v. D.

(§ 8.)
Appointment by
sole arbitrator,
for proceeding
on reference.

Prac. 825.

I appoint — next, at — o'clock, at my chambers in —, for
proceeding on this reference. Dated the — day of — 18—.

To Mr. —, plaintiff's (or, }
defendant's) attorney.

E. F.

(§ 9.)
Appointment
of third person
as arbitrator.

Prac. 825.

We the within-named E. F. and G. H. do by this memorandum, under
our hands, made before we enter or proceed on the arbitration within-
mentioned, declare that we have nominated and appointed, and do hereby
nominate and appoint, Mr. I. K. of — the third person or arbitrator,
to whom, together with ourselves, all matters in difference between the
said parties shall be referred, according to the tenor and effect of the within
rule. Witness our hands, this — day of — 18—. E. F.

G. H.

(§ 10.)
Appointment of
further day to
make an award.

Prac. 826.

We the under-signed arbitrators do hereby appoint, and signify by this
writing, under our hands, the — day of — next ensuing the date
hereof, a further and ulterior day; on or before which said day, the
award in writing of and concerning the matters in difference within men-
tioned and referred, shall be made and published. Dated this — day
of — 18—. E. F. (&c.)

— on (or, next after) — &c. (175.)

(§ 11.)
Rule of court,
to enlarge the
time for making
an award, in
K. B.

Prac. 485. 827.

B. } Upon reading the rule made in this cause, on — next after
v. } —, in — term last past; It is ordered, that the time limited
D. } for the arbitrators in the said rule named making their award in
this cause, be enlarged, (or, further enlarged,) until the — day of
— next ensuing, inclusive. Upon the motion of Mr. J. Hamerton.

By the Court.

(§ 12.)
Award, in fa-
vour of plaintiff,
on a rule of
court, in K. B.

Prac. 827.

To all to whom these presents shall come, we E. F. of —, G. H. of
—, and I. K. of —, send greeting: Whereas by a rule of his ma-
jesty's court of King's Bench at Westminster, made on — next after
—, in the — year of the reign of king George the Fourth, in a
cause then depending in the said court, wherein A. B. was plaintiff and
C. D. was defendant, after reciting as therein was recited, it was ordered,
(upon hearing counsel for the plaintiff and defendant,) that all matters in
difference between the said parties, should be referred to the award,
order, arbitrament, final end and determination of us E. F. and G. H.
and of such third person as we should, by memorandum under our hands,
to be indorsed on the said rule, before we proceeded on the said arbitra-
tion, nominate and appoint, or of any two of us, so as we the said arbitra-
tors, or any two of us, should make our award in writing, of and con-
cerning the premises in question, on or before the — day of — then
next, or on or before such further or ulterior day, as we the said arbitra-
tors, or any two of us, should ultimately appoint, and signify in writing
under our hands, to be indorsed on the said rule, and the said court, or
one of the judges thereof, should order; and that the said parties should
perform, fulfil and keep such award, so to be made by the said arbitra-
tors, or any two of us; and it was further ordered, by and with such
consent as aforesaid, that the costs of the said cause, and of the said re-

ference, or in any manner relative thereto, should abide the event of the said award or umpirage. And whereas we the said *E. F.* and *G. H.* by virtue of the authority given us by the said in part recited rule, did nominate and appoint the said *I. K.* to act with us in the said reference, before we proceeded on the same: And whereas the time limited for making our said award has been duly enlarged, until the — day of — instant: Now know ye, that we the said *E. F. G. H.* and *I. K.* in pursuance of the said rule and reference, having heard the said parties, by themselves and their attornies, their allegations and answers, touching and relating to the matters in difference between them, examined their witnesses upon oath, and maturely considered thereon; do award, order, adjudge, find and determine, of and upon the premises, in manner following, (that is to say:) We do award and order, that the said *C. D.* shall and do pay to the said *A. B.* at the house of Mr. — attorney at law, in —, between the hours of — and — of the clock in the — noon of the — day of this present month of —, the sum of — *l.* of lawful money of *Great Britain*, which we find to be due and owing to the said *A. B.* on a settlement of all accounts, dealings and transactions between him and the said *C. D.* and so referred to us as aforesaid: And we do also award and order, that the said *A. B.* shall and do pay unto Mr. — of —, upon the delivery of this our award, the sum of — *l.* for the costs of us the said arbitrators in the said reference, the drawing of our award, and the stamps used for the same. In witness whereof, we have hereunto respectively set our hands, the — day of — 18—.

Signed and published, (being first duly	}	<i>E. F.</i>
stamped,) in the presence of		<i>G. H.</i>
<i>L. M.</i>		<i>I. K.</i>

To all to whom these presents shall come, I *E. F.* of —, send greeting. Whereas by an order of the right honourable *Charles Lord Tenterden*, chief-justice of his majesty's court of King's Bench at *Westminster*, dated the — day of — last, and made in a certain cause, then and now depending in the same court, wherein *A. B.* is plaintiff and *C. D.* is defendant, the said chief-justice, upon hearing the attornies or agents on both sides, and by their consent, did order, (amongst other things,) that all matters in difference between the parties in the said cause, should be referred to the award, order, arbitrament, final end and determination of me the said *E. F.* so as I should make and publish my award in writing, of and concerning the premises, on or before the — day of — then and now next: And, by the like consent, the said chief-justice did further order, that the costs of the said action should abide the event of my award; and that the costs of such reference should be in the discretion of me the said arbitrator: And, by the like consent, the said chief-justice did further order, that the parties, and their respective witnesses, might be examined upon oath, to be sworn before any judge of the court of King's Bench, or a commissioner for taking affidavits in the said court; and that the parties should produce before me the said arbitrator, all

(§ 13.)
The like, on a
judge's order,
in *K. B.*
Prac. 827.

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books, papers and writings, in their custody or power, touching the matters in question; and that the said order should be made a rule of the said court of King's Bench, if the same court should so please; as by the said order more fully appears: Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the burthen of the said arbitrament, and having heard, examined and considered the allegations and proofs of both the said parties, concerning the premises, do thereupon make this my award in writing, concerning the same, in manner following, (that is to say :) I do award, adjudge and determine, that all further proceedings in the said cause shall from henceforth cease, and be no further prosecuted; and that the said *C. D.* shall and do, on the — day of — instant, (or, next,) between the hours of — and — of the clock of the same day, well and truly pay, or cause to be paid, unto the said *A. B.* or his attorney, Mr. *G. H.* of —, at —, the sum of — *l.* of lawful money of Great Britain, in full of all demands in the said cause; and that upon payment thereof, the said *A. B.* shall, if required so to do, by and at the costs of the said *C. D.* execute and deliver to him the said *C. D.* a general release in writing, of all and all manner of action and actions, cause and causes of action, debts, duties, claims and demands whatsoever, from the beginning of the world, until the day of the date of the aforesaid order: And lastly, I do award and direct, that each of them the said *A. B.* and *C. D.* shall and do bear and pay his own costs of the reference, and of this my award. In witness whereof, I the said *E. F.* the arbitrator aforesaid, have hereunto set my hand, the — day of — 18—.

Signed, &c. (as in last.)

(§ 14.)
The like, on an
order of *nisi*
prius, in K. B.
Prac. 827.

To all to whom these presents shall come, I, *E. F.* of —, send greeting: Whereas at the sitting at *nisi prius*, holden at the Guildhall of the city of London, (or, at Westminster-hall, in the great hall of pleas there, in and for the county of Middlesex,) on — the — day of — 18—, before the right honourable Charles Lord Tenterden, chief-justice of our lord the king, assigned to hold pleas before the king himself, a cause came on to be tried, wherein *A. B.* was plaintiff, and *C. D.* defendant; and thereupon a certain order of *nisi prius* was then and there made, whereby it was ordered by the court, by and with the consent of the plaintiff and defendant, their counsel and attornies, that the said cause, and all other matters in difference between the parties, should be referred to the award, order, arbitrament, final end and determination of me the said *E. F.* so as I should make and publish my award in writing, of and concerning the premises in question, on or before the — day of — term, then and now next ensuing; and it was also ordered, by and with such consent as aforesaid, that the costs of the cause should abide the event and determination of the said award, and that the costs of the reference should be in the discretion of me the said arbitrator, who should direct and award by whom, and to whom, and in what manner the same should be paid: Now know ye, that I the said *E. F.* having taken upon myself the said reference, and having heard, examined, and considered the several allega-

tions and proofs of the said parties respectively, do, in pursuance of the said reference, make and publish this my award in writing, of and concerning the matters so referred to me as aforesaid, in manner following, (that is to say) : I do award, order and direct, that the said cause shall cease, and be no further prosecuted ; and that the said *C. D.* his executors or administrators, shall and do pay to the said *A. B.* his executors or administrators, or such other person as he or they shall or may lawfully authorize to receive the same, at the office of Messrs. — attorneys at law, in —, the sum of — *l.* together with the costs of the said cause, to be taxed by the proper officer of the the said court, and the further sum of — *l.* as and for one moiety of the expenses of this my award, at the times and in manner following, that is to say ; the sum of — *l.* parcel of the said sum of — *l.* together with the costs of the said cause, and the said sum of — *l.* on the — day of — now next ensuing, between the hours of — and — in the — noon of the same day, and the further sum of — *l.* residue of the said sum of — *l.* on the — day of — now next ensuing, between the same hours. And I do further award, order and direct, that the said *A. B.* his executors or administrators, shall and do, within — days after payment of the said last-mentioned sum, seal and deliver to the said *C. D.* his executors or administrators, a general release of all actions, claims and demands, to the day of the date of the said order of *nisi prius*, if such release, prepared at the expense of the said *C. D.* his executors or administrators, shall be tendered or left for him at the said office, on the said — day of —, at the time of payment of the said last-mentioned sum of — *l.* And lastly, I do award, order and direct, that if default shall be made in payment of all, either, or any part of the sums of money herein by me directed to be paid, at the place and times in that behalf appointed, then and from thenceforth, all the monies herein directed to be paid, or so much thereof as shall then remain unpaid, shall become instantly due and payable ; and the said *A. B.* may immediately use such lawful means, for obtaining payment thereof, as he might have done, if the whole of the said monies, or such part thereof as shall then remain unpaid, had been herein directed to be paid on the day at which such default shall happen to be made, and such direction had not been complied with. In witness whereof, &c. (305.)

To all to whom these presents shall come, I *E. F.* of —, send greeting : Whereas at the sitting at *nisi prius*, &c. (as in the last, stating the order to be, " that the jury shall find a verdict for the plaintiff, damages — *l.* and costs forty shillings, subject to the said order, and the award to be made pursuant thereto ; and that all matters in difference in the said cause, between the parties, should be referred, &c." (as in the last.) Now know ye, that I the said *E. F.* having taken upon myself the said reference, &c. (306, 7.) do hereby make and publish my award in writing, of and concerning the several matters above referred to me, in manner following, (that is to say) : I do award, order and adjudge, that the said

(§ 15.)
The like, that the plaintiff is entitled to a verdict ; and award of damages.

Prac. 827.

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(§ 16.)

The like, that a certain sum is due to the plaintiff, and that the verdict be reduced to that sum.

Prac. 827.

plaintiff had good cause of action against the said defendant in the said cause, and was and is entitled to a verdict therein: And I assess and award the damages, to be paid by the said defendant to the said plaintiff in the said cause, at the sum of —*l.* In witness whereof, &c. (305.)

(*As in the last, to the adjudication, which is as follows:*) I do award, order and adjudge, that there was and is justly due from the said defendant to the said plaintiff, upon and for the several matters of complaint contained in the declaration of the said plaintiff in the said cause, and which the said plaintiff was entitled to recover therein, the sum of —*l.* And I do order and direct the damages given by the said verdict to be altered, and reduced to the said sum of —*l.* In witness whereof, &c. (305.)

(§ 17.)

The like, on an order of *nisi prius*, in C. P. that the plaintiff had no cause of action.

Prac. 827.

To all to whom these presents shall come, I *E. F.* of —, send greeting: Whereas at the sitting at *nisi prius*, after — term last, holden at the Guildhall of the city of London, (or, at Westminster, in the great hall of pleas there, in and for the county of Middlesex,) on — the — day of — in the year of our lord 18—, before the right honourable Sir William Draper Best knight, lord chief-justice of his majesty's court of Common Pleas at Westminster, a certain order was made, in a certain cause then depending in the same court, wherein *A. B.* was plaintiff and *C. D.* was defendant, whereby (amongst other things,) it was ordered by the court, by and with the consent of all parties, their counsel and attornies, that the jury should find a verdict for the plaintiff, for —*l.* damages, subject to the award, order, arbitrament, final end and determination of me *E. F.* of —, to whom all matters in difference between the said parties were thereby referred, so as I the said arbitrator did and should make and duly publish my award in writing, of and concerning the matters referred, ready to be delivered to the said parties, or to either of them, requiring the same, on or before the — day of — term next ensuing the day of the date of the said order, or on or before any other day, to which I the said arbitrator should enlarge the time for making my said award; and, by the like consent, it was also ordered, that I the said arbitrator should and might be at liberty, if I should think fit, to examine the parties to that suit upon oath; and for that purpose, the said parties, and also the witnesses to be examined before me the said arbitrator, touching the matters referred, should and might be sworn before the right honourable the lord chief-justice, or some other judge of his majesty's said court of Common Pleas; and that the said parties should produce before me the said arbitrator, all books, deeds, papers and writings whatsoever, in their or either of their custody or power, relating to the matters in difference: And, by the like consent, it was also ordered, that the costs of the said suit should abide the event of the said award, so to be made and published as aforesaid, to be taxed; and that the costs of the reference should be in the discretion of me the said arbitrator; as by the said order more fully appears: Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the burthen of the said arbitrament, and having heard, examined and considered the allegations and proofs of both the said par-

ties, concerning the premises, do thereupon make this my award in writing, concerning the same, in manner and form following, (that is to say :) I do award, adjudge and determine, that at the time of commencing the said ~~suit~~, the said *A. B.* had no ~~cause~~ of action whatever against the said *C. D.* in respect of the said matters to me referred ; and I do thereupon award, order and direct, that instead of the said verdict and damages so found for the said plaintiff, a verdict in the said action be entered for the said *C. D.* : And I do further award, order and direct, that the said *A. B.* and *C. D.* shall respectively bear and pay their own ~~costs~~ of the reference, and of this my award. In witness whereof, &c. (305.)

To all to whom these presents shall come, I *E. F.* of —, send greeting: Whereas divers differences and disputes having arisen, and being depending, between *A. B.* of —, and *C. D.* of —, they the said *A. B.* and *C. D.* in order to put a final end to the said differences and disputes, did agree to refer the same to the award, order and determination of me the said *E. F.* ; and did accordingly, by their several obligations, dated the — day of — instant, (*or*, last,) respectively become bound, each to the other, in the penal sum of —*l.* of good and lawful money of *Great Britain* ; with conditions thereunder written, to stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, final end and determination of me the said *E. F.* an arbitrator indifferently elected and named, as well on the part and behalf of the said *A. B.* as of the said *C. D.* to arbitrate, award, order, judge and determine, of and concerning all and all manner of action and actions, cause and causes of action, suits, bills, bonds, specialties, covenants, contracts, promises, accounts, reckonings, sums of money, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, both in law and equity, at any time theretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending, by or between the said parties, or either of them, so as the said award of me the said arbitrator should be made in writing, and ready to be delivered to the said parties in difference, or such of them as should require the same, on or before the — day of — then next ; as by the said obligations and conditions more fully appears : Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the charge of the said award and arbitrament, and having been attended by the said parties, and their respective attornies, and having heard, examined and considered the allegations and evidence of both the said parties and their witnesses, concerning the premises, do thereupon make this my award in writing concerning the same, in manner and form following, (that is to say :) I do award, arbitrate and determine, that the said *C. D.* his executors or administrators, shall and do well and truly pay, or cause to be paid, to the said *A. B.* his executors or administrators, on — the — day of — next ensuing, between the hours of — and — of the clock of the same day, at the house of —, of —, the sum of —*l.* of lawful money of *Great Britain* : And I do further award, arbitrate and determine, that upon payment of the said sum of —*l.* to the said *A. B.*

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(§ 18.)
The like, on
arbitration
bonds.

Prac. 827.

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as aforesaid, they the said *A. B.* and *C. D.* shall respectively sign, seal, and as their respective acts and deeds deliver, each unto the other of them, mutual general releases in writing, of all and all manner of action and actions, cause and causes of action, bills, bonds, specialties, controversies, claims and demands whatsoever, from the beginning of the world, until the day of the date of the aforesaid obligations. In witness whereof, &c. (305.)

(§ 19.)
Rule, for making a submission to arbitration by bond, a rule of court, in C. P.
Prac. 490. 836.

B. } Upon reading the affidavit of *L. M.* and also the bond and condition thereof thereunder written, executed by the said *C. D.*; the tenor
D. } of which said bond and condition is in the words and figures following (that is to say:) Know all men, &c. (*to the end of the bond, and condition* :) Now, upon reading the bond and condition aforesaid, it is ordered, that the said bond, and the condition thereof, and the submission between the said parties in the said condition mentioned, be, and the same is hereby made a rule of this court, pursuant to the statute in such case made and provided.

By the Court.

(§ 20.)
Affidavit of the due execution of award.
Prac. 837.

In the King's Bench, &c. (185.)

I. K. of —, maketh oath and saith, that he this deponent did, on the — day of — 18—, see *E. F.* of —, sign, seal, publish and declare his award and arbitrament in writing, between *A. B.* of —, and *C. D.* of —, bearing date the same day and year aforesaid. And this deponent further saith, that the name *E. F.* set and subscribed to the said award, as the party executing the same, is of the proper hand-writing of the said *E. F.*; and that the names *I. K.* and *L. M.* set and subscribed thereto, as witnesses attesting the execution of the said award, are of the respective hand-writing of this deponent, and the said *L. M.* *I. K.*

Sworn, &c. (175.)

(§ 21.)
Affidavit of demand and refusal, &c. to ground attachment.
Prac. 837.

In the King's Bench, &c. (185.)

A. B. of —, maketh oath and saith, that he this deponent did, on the — day of — last, personally attend, from the hour of — until the hour of — in the forenoon of the same day, at —, (*the time and place mentioned in the award*;) for the purpose of receiving the sum of —*l.* awarded to this deponent, pursuant to a certain award in writing, which is hereunto annexed; but the said *C. D.* did not attend at the time and place aforesaid, or pay to this deponent the said sum of —*l.* or any part thereof: And this deponent further saith, that on — next after — in this present — term, the submission of this deponent and the said *C. D.* to the said award, contained in a certain bond or obligation, bearing date the — day of — 18—, was made a rule or order of this honourable court; and that he this deponent did, on the — day of — last, personally serve the said *C. D.* with a true copy of the said rule or order and award, and at the same time shewed him the said original rule or order and award, and demanded of him the payment of the said sum of —*l.* so awarded to this deponent as aforesaid; but the said *C. D.* did not then, or at any time afterwards, pay the same, or any part thereof, to this deponent, and the said sum of —*l.* now remains wholly due and owing to this deponent.

(If the time for making the award has been enlarged, the following addition should be made to the affidavit :) And this deponent further saith, that the time for making the said award was duly enlarged to the — day of — last, as appears by an indorsement (or, by — several indorsements) on the said bond or obligation, and as he this deponent verily believes; and that the said award was made within the time limited for making the same. And this deponent further saith, that at the time of demanding payment of the said sum of —l. the said C. D. had notice that the time for making the said award had been so enlarged, and that the said award was so made as aforesaid. A. B.

Sworn, &c. (175.)

In the King's Bench, &c. (185.)

A. B. plaintiff, &c. (id.)

(§ 22.)

The like, of the sum awarded, and taxed costs. Prac. 837.

A. B. of —, the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the — day of — last, personally serve the above-named defendant, with a true copy of the rule and *allocatur*, and also a true copy of the award, hereunto annexed, and at the same time shewed him the said original rule, *allocatur* and award, and demanded of him the payment of the sum of —l. awarded to this deponent by E. F. of —, the arbitrator named in the said award, and also the payment of the sum of —l. for the costs allowed to him this deponent in the said cause; but the said defendant refused to pay the same, or any part thereof, and the said sums of —l. and —l. still remain wholly due and owing from him the said defendant to this deponent. A. B.

Sworn, &c. (175.)

(§ 23.)

Rule nisi for an attachment, for non-payment thereof, in C. P. Prac. 480. 837.

B. } Upon reading a rule made in this cause, on, (&c.) the affidavit of
v. } J. K. and the award of E. F. thereto annexed, and the affidavit of
D. } A. B. the plaintiff in this cause; It is ordered, that the defendant, upon notice of this rule to be given to him, shall shew cause to this court, on — next, why an attachment of contempt should not be issued forth against him, for non-payment of the sum of —l. awarded due to the said plaintiff; and also for non-payment of the sum of —l. for the said plaintiff's costs, incurred in and about the said arbitration. By the Court.

CHAP. XXXVII.

PLEAS, PUIS DARREIN CONTINUANCE, &c. ; VERDICT ; POSTEAS ; DEMURRERS *to* EVIDENCE ; *and* BILLS *of* EXCEPTIONS.

(§ 1.)
Plea of release,
puis darrein
continuance,
pleaded in bank.
Prac. 848, 9.

IN the King's Bench, (*or* Common Pleas.)

— next after —, in — term, in the — year of the reign of king *George* the Fourth.

D. } And now, at this day, that is to say, on — next after —, in
ats. } this same term, until which day the plea aforesaid was last con-
B. } tinued, come as well the said *A. B.* as the said *C. D.* by their
respective attornies aforesaid ; and the said *C. D.* saith, that the said
A. B. ought not further to maintain his aforesaid action thereof against
him : Because he says, that after the making of the several supposed
promises and undertakings in the said declaration mentioned, (*or*, “ after
the several supposed causes of action in the said declaration mentioned
accrued to the said *A. B.*”) and after the last continuance of the plea
aforesaid, that is to say, after — next after — in this same term,
(*or*, in — term last,) from which day the said plea was last continued,
and before this day, to wit, on the — day of —, in the year of our
Lord 18—, at — aforesaid, the said *A. B.* by his certain deed or writ-
ing of release, sealed with his seal, and which the said *C. D.* now brings
here into court, the date whereof is the day and year last aforesaid, did
remise, release, and for ever quit claim unto the said *C. D.* his heirs, exe-
cutors and administrators, all and all manner of action and actions, cause
and causes of action, suits, bills, bonds, writings obligatory, debts, dues,
duties, accounts, reckonings, sum and sums of money, judgments, executions,
extents, quarrels, controversies, trespasses, damages, and demands what-
soever, both at law and in equity, or otherwise howsoever, which he the
said *A. B.* then had, or which he should or might at any time thereafter
have, claim, challenge or demand against the said *C. D.* for or by reason or
means of any matter, cause or thing whatsoever, from the beginning of
the world, until the day of the date of the said deed or writing of re-
lease ; as by the said deed or writing of release, (reference being there-
unto had,) will fully appear. And this he the said *C. D.* is ready to verify ;
wherefore he prays judgment, if the said *A. B.* ought further to maintain
his aforesaid action thereof against him, &c.

J. P. Grant.

(§ 2.)
The like, plead-
ed at *nisi prius*,
in a town cause.
Prac. 848, 9.

D. } And now, at this day, to wit, on the — day of — in the
ats. } — year of the reign of our sovereign lord the now king, before
B. } the right honourable *Charles* Lord *Tenterden*, his majesty's chief-
justice, assigned to hold pleas in the court of our said lord the king before

the king himself, (or, in *C. P.* "before the right honourable Sir William Draper Best knight, his majesty's chief-justice, assigned to hold pleas in his said majesty's court of the Bench, according to the form of the statute in such case made and provided,") comes the said *C. D.* by Thomas Denman his counsel; and says, that the said *A. B.* ought not further to maintain his aforesaid action thereof against him the said *C. D.*; because he says, that after the making of the several supposed promises and undertakings in the said declaration mentioned, (or, after the several supposed causes of action in the said declaration mentioned accrued to the said *A. B.*.) and after the last continuance of the plea aforesaid, that is to say, after the — day of — last past, (*the return day of the venire facias,*) from which day, until — in — term next, (*the return day of the distringas, or habeas corpora,*) unless the said right honourable Charles Lord Tenterden, his majesty's chief-justice, assigned to hold pleas in the court of our said lord the king before the king himself, (or in *C. P.* "unless the said right honourable Sir William Draper Best knight, his said majesty's chief-justice, assigned to hold pleas in his said court of the Bench aforesaid,") shall first come on —, (*the first day of the sittings,*) at the Guildhall of the city of London, (or, if in *Middlesex*, "at Westminster in the county of *Middlesex*, in the great hall of pleas there,") the action aforesaid is continued, and before this day, to wit, on, &c. at, &c. (*as in last.*) And this he is ready to verify; wherefore he prays judgment, if the said *A. B.* ought further to maintain his aforesaid action thereof against him, &c.

T. Denman.

D. } And now, at this day, that is to say, on the — day of —
ats. } in the — year of the reign of our sovereign lord the now king,
B. } before — and —, justices of our said lord the king, assigned to take the assizes in and for the county of — aforesaid, at — in the same county, comes the said *C. D.* by Richard Gouldsmith his counsel, and says, that the said *A. B.* ought not further to maintain his aforesaid action thereof against him; because he says, that after the making of the said several supposed promises and undertakings in the said declaration mentioned, (or, "after the said several supposed causes of action in the said declaration mentioned accrued to the said *A. B.*") and after the last continuance of the plea aforesaid, that is to say, after the — day of — last past, (*the return day of the venire facias,*) from which day, until — in — term next, (*the return day of the distringas, or habeas corpora,*) unless his majesty's justices assigned to take the assizes in and for the said county of — shall first come on —, (*the commission day,*) at — aforesaid, in the said county, the action aforesaid is continued, and before this day, to wit, on, &c. at, &c. (*as in last but one.*)

R. Gouldsmith.

D. } And now, at this day, &c. (*as in the preceding forms,*) comes the
ats. } said *C. D.* by William Paley his counsel, and prays judgment
B. } of the said bill (or writ) of the said *A. B.*; because he says, that after the making of the several supposed promises and undertakings in the said declaration mentioned, and after the last continuance of the plea aforesaid, that is to say, after, &c. (*as in the preceding forms,*) and be-

(§ 3.)
The like, at the
assizes.
Prac. 850.

(§ 4.)
Plea of cover-
ture of plaintiff
in abatement,
puis darrein con-
tinuance.
Prac. 849, 50.

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(§ 5.)
Affidavit of
truth of plea
puis darrein
continuance.
Prac. 850, 51.

(§ 6.)
Challenge to the
array.
Prac. 851, 2.

(§ 7.)
Entry of ver-
dict, on a trial
at bar, in K. B.
Prac. 751. 900.

(§ 8.)
Postea for the
plaintiff, on
non assumpsit,
in a town cause,
when the de-
fendant makes
default.
Prac. 900.

fore this day, that is to say, on the — day of — in the year of our Lord 18—, at — aforesaid, the said *A. B.* intermarried with one —, who is still living, to wit, at — aforesaid: And this he the said *C. D.* is ready to verify; wherefore he prays judgment of the bill (or, writ) aforesaid, and that the same may be quashed, &c. *W. Paley.*

In the King's Bench, (or Common Pleas.) *A. B.* plaintiff, &c. (185.)

C. D. of —, the above-named defendant, maketh oath and saith, that the plea hereunto annexed is true, in substance and matter of fact. *C. D.*

Sworn, &c. (175.)

B. } And now, at this day, that is to say, on, (&c.) come here as well
v. } the said *A. B.* as the said *C. D.* by their respective attornies afore-
D. } said; and the jurors of the jury impanelled to try the issue (or
issues) joined between the parties aforesaid, also come: And hereupon the said *C. D.* challenges the array of the said panel; because he saith, that, &c. (*here state the ground of the challenge; as that the sheriff is a party, or interested in the suit; or of kin to the plaintiff, shewing how; or that he made the array at the nomination, or under the direction of the plaintiff, &c.*) And this he the said *C. D.* is ready to verify; wherefore he prays judgment, and that the said panel may be quashed, &c.

(*After the award of the venire facias, proceed as follows:*)

From which day, the jury aforesaid, between the parties aforesaid, of the plea aforesaid, was respited thereupon between them, before our lord the king at *Westminster*, until — next after — then next following, for default of the jurors, &c. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the jurors of that jury, being summoned, also come, who to speak the truth of the premises, being chosen, tried and sworn, say upon their oath, &c. (*stating their verdict.*)

Afterwards, that is to say, on the day and at the place within contained before the right honourable *Charles Lord Tenterden*, the chief-justice within mentioned, *John Henry Abbott Esquire* being associated unto the said chief-justice, (or, in the *Common Pleas*, “before the right honourable Sir *William Draper Best* knight, the chief-justice within-mentioned, — being associated unto the said chief-justice,”) according to the form of the statute in such case made and provided, (or, in the *Exchequer*, “before the right honourable Sir *William Alexander* knight, the chief-baron within-mentioned,”) comes the within-named *A. B.* by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury, being summoned, also come, who, to speak the truth of the matters within contained, being chosen, tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the not per-

forming of the promises and undertakings within-mentioned, over and above his costs and charges by him about his suit in this behalf expended, to —l. and for those costs and charges to forty shillings. Therefore, &c.

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Charles Lord Tenterden*, &c. (*as in the last*,) come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, who, to speak the truth of the matters within contained, being chosen, tried and sworn, say upon their oath, &c. (*as in the last*.)

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Charles Lord Tenterden*, &c. (*as before*, § 8.) comes the within-named *A. B.* by his attorney within-mentioned; and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury, being summoned, some of them, that is to say, *E. F.* &c. (*here name such of the jurors as appeared at the trial*,) come, and are sworn upon that jury; and because the residue of the jurors of the same jury do not appear, therefore others of the by-standers, being chosen by the sheriff of the county aforesaid, at the request of the said *A. B.* (*or, C. D.*) and by the command of the said chief-justice, (*if in London or Middlesex; if at the assizes*, “by command of the said justices,”) are appointed anew, whose names are annexed to the within-written panel, according to the form of the statute in that case made and provided; which said jurors so appointed anew, that is to say, *G. H.* &c. (*naming the talesmen*,) being called, likewise come, who, together with the said other jurors before impanelled and sworn, being chosen, tried and sworn to speak the truth of the matters within contained, say upon their oath, that the said *C. D.* did undertake and promise, &c. (*as in pp. 314, 15*.)

Afterwards, that is to say, on the day and at the place within contained, before the honourable —, one of the justices, in the absence of the right honourable *Sir William Draper Best* knight, the chief-justice within-mentioned, come the within-named *A. B.* and *C. D.* by their respective attornies within-mentioned; and the jurors of the jury also within mentioned, being impanelled and drawn by ballot, according to the form of the statute in that case made and provided, and called, appear; and being sworn to declare the truth touching the matters therein contained, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within thereof complained against him: And they assess the damages of the said *A. B.* by reason of the not performing of the said promises and undertakings, over and above his costs and charges by him about his suit in this behalf expended, to —l. and for those costs and charges to 40s. Therefore, &c.

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Charles Lord Tenterden*, chief-justice (*or*, one of the justices) assigned to hold pleas before the king himself,

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XXXVII.

(§ 9.)
The like, when
the defendant
appears.

Prac. 900.

(§ 10.)
The like, with
a tales.

Prac. 900.

(§ 11.)
The like, in
C. P. where
the cause was
tried before a
justice judge,
sitting for the
chief-justice.

Prac. 900.

(§ 12.)
The like, at the
assizes.

Prac. 900.

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(or, before the right honourable Sir William Draper Best knight, chief-justice, or, —, one of the justices of our lord the king of the bench ; or, before the right honourable Sir William Alexander knight, chief-baron, or —, one of the barons, of the Exchequer of our lord the king,) and —, one of the justices, or, barons, &c. (*as before*.) justices of our said lord the king, assigned to take the assizes in and for the county of —, according to the form of the statute, &c. (*as in p. 314.*)

(§ 13.)

The like, when only one judge goes the circuit, in K. B.

Prac. 900.

Afterwards, that is to say, on the day and at the place within contained, before —, one of the justices, (*or*, barons, &c.) and — Esquire, for this time, associated to the right honourable Charles Lord Tenterden, chief-justice of the said lord the king, assigned to hold pleas before the king himself, and to the said —, justices of the said lord the king, assigned to take the assizes in the county of —, according to the form of the statute, &c. (the presence of the said Charles Lord Tenterden not being expected,) by virtue of the writ of the said lord the king of *Si non omnes*, &c. comes the within-named *A. B.* &c. (*as in* § 8 ; *or*, come as well the within-named *A. B.* as the within-named *C. D.* &c. *as in* § 9.)

(§ 14.)

The like, in the county palatine of Lancaster.

Prac. 900.

Afterwards, that is to say, at the next general session of assize holden at Lancaster, in and for the county palatine of Lancaster, within-mentioned, upon — the — day of —, in the — year of the reign of his present majesty king George the Fourth, before —, one of the justices of our said lord the king, &c. (*as in* § 12.) and —, one of the justices of our said lord the king, &c. (*id.*) justices of our said lord the king at Lancaster aforesaid, cometh the within-named *A. B.* by his attorney, and prayeth to be done to him what the law requireth, in order to try the issue within joined between him and the within-named *C. D.* ; and whereupon, by a writ of our said lord the king, the sheriff of the said county is commanded, that he cause to come before the said justices here at Lancaster, on — next to come, in the same session of assize, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; the same day is given to the said parties here, &c. At which day here, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney ; and the sheriff, to wit, —, now returneth before the said justices at Lancaster, the said writ of *venire facias* to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed ; and the jurors thereupon impanelled come not : Therefore, by another writ of the said lord the king, the same sheriff of the county aforesaid is commanded, that he have their bodies before the said justices at Lancaster, on — next to come, in the same session, &c. At which day, to wit, on —, in the — year of the reign of his said majesty, come here as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid ; and the sheriff returneth before the same justices at Lancaster, the same writ, in all things served and executed : and thereupon the jurors impanelled and drawn by ballot, according to the form of the statute in such case made and provided, being called over, likewise come, who to speak the truth of the matters within-mentioned, being elected, tried and

sworn, on their oath say, &c. (*stating the verdict.*) And hereupon the said justices at *Lancaster* aforesaid, have prefixed — next to come, for the said parties to be before the said lord the king (or, in *C. P.* before the justices of the said lord the king, or, in the *Exchequer*, before the barons of the *Exchequer* of the said lord the king) at *Westminster*, to hear judgment, &c.

Afterwards, to wit, at the session of *Chester*, holden at *Chester*, in the county of *Chester*, in the common hall of pleas of the said county, upon — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before the honourable *Charles Warren*, the said lord the king's chief-justice of *Chester*, and *Thomas Jervis*, Esquire, the said lord the king's other justice of the said county, being the next session for the said county, after the within record was delivered to the said justices here, comes the within-named *A. B.* by *E. F.* his attorney, and prays a writ of the said lord the king, to the sheriff of the said county to be directed, to cause to come before the said justices, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; and it is granted unto him, returnable here, upon — in this same session; the same day is given as well to the said *A. B.* as to the within-named *C. D.*: Upon which same —, before the same justices here, come the said *A. B.* by his said attorney, and the said *C. D.* by *G. H.* his attorney; and *I. K.* Esquire, sheriff of the said county, doth now return here, the said writ of *venire facias*, to him in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled, being called, none of them came: therefore that jury was respited until — next, in this same session, for default of jurors, because none of them did appear, &c.; and it is commanded to the sheriff of the said county, that he then have the bodies of the jurors aforesaid, here, &c. to try the issue within written; the same day is given to the parties aforesaid, here, &c. On which same —, before the said justices here, come as well the said *A. B.* by his said attorney, as the said *C. D.* by his said attorney; and the said sheriff doth now return here, the writ of *habeas corpora*, to him in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed: And the jurors thereupon impanelled, to wit, *L. M.* &c. (*naming the jurors.*) being called, likewise come, who to speak the truth of the matters within contained, being elected, tried and sworn, upon their oath say, &c. (*stating the verdict.*) And hereupon the said justices have prefixed, &c. (*as in the last.*)

Afterwards, at the court of our lord the king of *Portnote* of the city of *Chester*, holden at the same city, in the common hall of pleas there, according to the use and custom of the same city hitherto obtained and used, from time whereof the memory of man is not to the contrary, upon — the — day of — in the — year of the reign of the same lord the king, before — Esquire, mayor of the said city of *Chester*, be-

(§ 15.)
The like, in the
county palatine
of *Chester*.

Prac. 900.

(§ 16.)
The like, in the
city of *Chester*.
Prac. 900.

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ing the next court of *Portmote* after this writ was delivered, here cometh the said *A. B.* by — his attorney, and prays the said lord the king's writ, to the sheriff of the said city of *Chester* to be directed, to cause to come before the said mayor, twelve free and lawful men of the said city, to try the said issue; and it is granted unto him, returnable here at the next court of *Portmote* of the said city of *Chester*, at the said city, in the said common hall of pleas, before the mayor of the said city for the time being, to be held by adjournment, upon — the — day of — in the same year: At which next court of *Portmote* of the said city of *Chester*, held at the same city, in the said common-hall, upon — the said — day of — in the same year, before the same mayor of the said city, here come as well the said *A. B.* by his said attorney, as the said *C. D.* by — his attorney; and — and —, sheriffs of the said city of *Chester*, now return the said writ of *venire facias*, to them in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled, being called, to wit, *E. F. G. H. (&c.)* do come, who, to say the truth of the premises, being chosen, tried and sworn, say upon their oath, &c. (*stating the verdict.*) And hereupon the said — Esquire, mayor of the said city of *Chester*, prefixes — next after —, for the parties aforesaid to be before the king himself (*or, in C. P. before the justices of the said lord the king, or, in the Exchequer, before the barons of the Exchequer of the said lord the king*) at *Westminster*, then and there to hear judgment.

(§ 17.)
The like, in the
county palatine
of *Durham*.
Prac. 900.

Afterwards, to wit, on the — day of —, in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king defender of the faith, I —, bishop of *Durham*, did give in charge the record within written, between *A. B.* plaintiff and *C. D.* defendant, to *E. F.* and *G. H.* aldermen of *Durham*, and their fellows, justices itinerant of our said sovereign lord the king, in the county palatine of *Durham* and *Sadberge*, at *Durham* aforesaid in the county aforesaid, so that the said justices might have the said record, at the next court of pleas of our said sovereign lord the king, to be holden at *Durham* aforesaid in the county aforesaid, next after the said record was delivered to them, to cause the verification of the issue therein specified to be made, as the law should direct in that behalf. At which day here, to wit, the said — day of — in the year aforesaid, come as well the said *A. B.* as the said *C. D.* in their proper persons; and the said *A. B.* desired to have done for him what the law directed, to try the issue aforesaid, between the said *A. B.* and the said *C. D.*; whereupon then and there, by a writ of our said sovereign lord the king, to the sheriff of the county aforesaid directed, the said sheriff was commanded, to cause to come before the justices of our said sovereign lord the king, at *Durham* aforesaid, on the — day of — next following, at — of the clock in the forenoon of that day, twelve good and lawful men of the body of his county, qualified by law, according to the form of the statute in such case made and provided, by whom the truth of the matter might be

the better known, and who neither to the said *A. B.* nor to the said *C. D.* were related by any affinity, to make a certain jury between the parties aforesaid, of the plea within mentioned, because as well the said *A. B.* as the said *C. D.* had put themselves upon that jury ; the same day and hour were given to the parties aforesaid, here, &c. At which day and hour, to wit, at *Durham* aforesaid, before — one of the justices of his majesty's court of Common Pleas at *Westminster*, — one of the barons of his majesty's court of Exchequer, and their fellows, justices itinerant of our said sovereign lord the king, in the said county palatine of *Durham* and *Sadberge*, come as well the said *A. B.* as the said *C. D.* in their proper persons ; and the sheriff, to wit, — Esquire, did return before the said last-mentioned justices at *Durham* aforesaid, the said writ of *venire facias*, to him directed in form aforesaid, together with the panel of the names of the jurors to the same writ annexed, in all things duly served and executed : and the jurors thereupon impanelled, being called, likewise come, who being ballotted, elected, tried and sworn, to speak the truth of the premises, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within thereof complained against him ; and they assess the damages of the said *A. B.* by reason of the premises, besides his costs and charges by him laid out about his suit in this behalf, to — *l.* and for his said costs and charges, to 40*s.* And upon this the said last-mentioned justices here, to wit, at *Durham* aforesaid, appointed to the said parties a day, to wit, on — next coming, to be before our said sovereign lord the king, (*or, in the Common Pleas*, before the justices of our said lord the king of the Bench, *or, in the Exchequer*, before the barons of the Exchequer of our said lord the king) at *Westminster*, to hear judgment thereupon, &c. At which day, I the said — Bishop of *Durham*, do send to our said sovereign lord the king, (*or, in the Common Pleas*, to the justices of our said lord the king of the Bench, *or, in the Exchequer*, to the barons, &c.) the record within written, according to the tenor of the writ of *mittimus* of our said sovereign lord the king, to me thereupon directed, and hereunto annexed, together with the writ of *venire facias*, and the panel of the names of the jurors aforesaid, hereunto likewise annexed.

The answer of —, bishop of *Durham*.

Say upon their oath, that the said *C. D.* did undertake and promise, to a larger amount than the within-mentioned sum of — *l.* (that is to say,) to the amount of the sum of — *l.* parcel of the several sums of money in the within declaration mentioned, in manner and form as the said *A. B.* hath within thereof complained against him ; and they assess the damages of the said *A. B.* on occasion of the not performing of the promises and undertakings within-mentioned, over and above the within-mentioned sum of — *l.* and his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40*s.* Therefore, &c.

Say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him ;

(§ 16.)
Postea, for the plaintiff, on *non assumptum*, except as to a sum tendered.
Prac. 900.

(§ 19.)
The like, on *non assumptum*, by

one of several defendants, where another has let judgment go by default.

Prac. 900.

(§ 20.)

The like, on *non assumpsit infra sex annos.*

Prac. 900.

(§ 21.)

The like, on *non assumpsit*, and *non assumpsit infra sex annos.*

Prac. 900.

(§ 22.)

The like, against an executor, on *non assumpsit* by the testator.

(§ 23.)

The like, on *plene administravit.*

Prac. 900.

(§ 24.)

The like, in covenant, on *non est factum.*

Prac. 900.

(§ 24. a.)

The like, on a replication of duress of imprisonment, to a plea of release.

Prac. 900.

(§ 25.)

The like, on *nil debet.*

Prac. 900.

and they assess the damages of the said *A. B.* on occasion of the not performing of the within-mentioned promises and undertakings, as well against the said *C. D.* as against the within-named *E. F.* over and above the costs and charges of the said *A. B.* by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40s. Therefore, &c.

Say upon their oath, that the said *C. D.* did, within six years next before the day of exhibiting the bill (*or, by original*, of suing out the original writ) of the said *A. B.* against the said *C. D.* in this cause, undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (*as before, pp. 314, 15.*)

—as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* did undertake, &c. (*as in § 19.*) And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* did within six years, &c. (*as in last.*)

Say upon their oath, that the within-named *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath within in that behalf alleged; and they assess the damages, &c. (*as in pp. 314, 15.*)

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (*or, by original*, of suing out the original writ of the said *A. B.* in this behalf,) had divers goods and chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, to the value of — *l.* as the said *A. B.* hath within in that behalf alleged; and they assess the damages, &c. (*as in pp. 314, 15.*)

Say upon their oath, that the indenture (*or* “articles of agreement,” *or* “deed poll”) within mentioned, is (*or, are*) the deed of the said *C. D.* in manner and form as the said *A. B.* hath within in that behalf alleged; and they assess the damages of the said *A. B.* by reason of the breaches of covenant within assigned, over and above his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40s. Therefore, &c.

Say upon their oath, that the said *A. B.* was, at the time of making the within-mentioned supposed deed or writing of release, unlawfully imprisoned, and detained in prison, by the said *C. D.* until, by force and duress of that imprisonment, he the said *A. B.* made the said supposed deed or writing of release, in manner and form as the said *A. B.* hath within in that behalf alleged; and they assess the damages, &c. (*as in last.*) Therefore, &c.

Say upon their oath, that the said *C. D.* doth owe to the said *A. B.* the within-mentioned sum of — *l.* in manner and form as the said *A. B.* hath within in that behalf alleged; and they assess the damages of the said *A. B.* on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1s. and for those costs and charges to 40s. Therefore, &c.

Say upon their oath, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alleged; and they assess the damages, &c. (*as in the last.*)

(§ 26.)
The like, on
non est factum,
in debt.
Prac. 900.

Say upon their oath, that the said *C. D.* did not pay to the said *A. B.* the within-mentioned sum of —*l.* or any part thereof, on the — day of —, in the condition of the within writing obligatory mentioned, according to the form and effect of the said condition, in manner and form as the said *C. D.* hath within in that behalf alleged; and they assess the damages, &c. (*as in the last but one.*)

(§ 27.)
The like, on
solvit ut dicim.
Prac. 900.

Say upon their oath, that the said *C. D.* did not indemnify, (&c.) but wholly refused and neglected so to do, contrary to the tenor and effect of the condition of the within-mentioned writing obligatory, in manner and form as the said *A. B.* hath within in that behalf alleged; and they assess the damages of the said *A. B.* on occasion of the detaining of the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1*s.* and for those costs and charges to 40*s.*; and they also assess the damages of the said *A. B.* on occasion of the breach of the said condition within assigned, according to the form of the statute in that case made and provided, to —*l.* Therefore, &c.

(§ 28.)
The like, on
an indemnity
bond, where
damages are
assessed on
stat. 8 & 9 W.
III. c. 11. § 8.
Prac. 900.

— as to the issue within joined between the said parties, say upon their oath, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alleged: And the jurors aforesaid, upon their oath aforesaid, further say, that the several matters within suggested, as and for a breach of the condition of the said writing obligatory, were and are true; and they assess the damages, &c. (*as in the last.*)

(§ 29.)
The like, where
non est factum is
pleaded.
Prac. 900.

— as to the sum of —*l.* in the — count of the within declaration mentioned, parcel of the sum of —*l.* within demanded, upon their oath say, that the said *C. D.* doth owe the said sum of —*l.* to our said lord the king and the said *A. B.* who sues as aforesaid, in manner and form as the said *A. B.* who sues as aforesaid hath within complained against him; and they assess the costs and charges of the said *A. B.* who sues as aforesaid, by him about his suit in this behalf expended, to 40*s.* And as to the residue of the said sum of —*l.* in the other counts of the within declaration mentioned, the jurors aforesaid, upon their oath aforesaid say, that the said *C. D.* doth not owe the same, or any part thereof, to our said lord the king and the said *A. B.* who sues as aforesaid, as the said *C. D.* hath within in that behalf alleged. Therefore, &c.

(§ 30.)
The like, on a
penal statute,
where part is
found for the
defendant.
Prac. 900.

Say upon their oath, that the said *C. D.* doth detain the goods and chattels (*or, deeds and writings*) within-mentioned, in manner and form as the said *A. B.* hath within complained against him: And they find the said goods and chattels, (*or, deeds and writings*), so detained, to be of the value of —*l.*; and they assess the damages of the said *A. B.* on occasion of the detaining of the said goods and chattels, (*or, deeds and writings*), over and above his costs and charges by him about his suit in this

(§ 30. a.)
The like, in
detinue.
Prac. 900.

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(§ 31.)
The like, on
not guilty, in
case.

Prac. 900.

(§ 32.)
The like, on
not guilty, in
trespass.

Prac. 900.

(§ 33.)
The like, on
several issues,
in trespass and
assault.

Prac. 900.

(§ 34.)
The like, on
not guilty to a
new assign-
ment, where
several issues
are found for
the defendant.

Prac. 900.

(§ 35.)
The like, where
one defendant
is found guilty,
and another
acquitted.

Prac. 900.

behalf expended, to —*l.*; and for those costs and charges to 40*s.* Therefore, &c.

Say upon their oath, that the said *C. D.* is guilty of the premises within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to —*l.*; and for those costs and charges to 40*s.* Therefore, &c.

Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the committing thereof, &c. (*as in last.*)

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid, upon their oath aforesaid, say that the said *C. D.* at the within-mentioned time when, &c. of his own wrong, and without any such cause as he the said *C. D.* hath within in that behalf alleged, assaulted, beat, bruised, wounded, and ill-treated the said *A. B.* in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the committing of the said trespasses, &c. (*as in last but one.*)

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is not guilty of the trespasses within laid to his charge, except as hereinafter mentioned, in manner and form as the said *A. B.* hath within complained against him: And as to the second issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* at the within-mentioned time when, &c. did not of his own wrong, but for such cause as he the said *C. D.* hath within in his last plea in that behalf alleged, assault, beat, bruise, wound, and ill-treat the said *A. B.* as in the first count of the within declaration is mentioned: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* is guilty of the trespasses within anew assigned, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the committing of the said last-mentioned trespasses, over and above his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore, &c.

Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* against the said *C. D.* on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* And the jurors aforesaid,

upon their oath aforesaid, further say, that the said *E. F.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him. Therefore, &c.

— as to the issue within joined between the said *A. B.* and the said *C. D.* and *E. F.* say upon their oath, that the said *C. D.* and *E. F.* are not guilty of the trespasses within laid to their charge, in manner and form as the said *A. B.* hath within thereof complained against them ; and they assess the damages of the said *A. B.* against the within-named *G. H.* and *I. K.* on occasion of the premises within-mentioned, over and above his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40s. Therefore, &c.

— and the jurors of that jury, being summoned, also come, who, to speak the truth of the matters within contained, were chosen, tried and sworn ; whereupon for certain causes, moving as well the said chief-justice, (or, justices,) as the within-named plaintiff and defendant, *E. F.* one of the jurors of the said jury, is withdrawn from the panel thereof ; and the residue of the jurors of that jury are altogether discharged from giving any verdict, of and upon the premises within-mentioned, &c.

— and the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, being chosen, tried and sworn, withdrew (or, if the plaintiff be nonsuited after giving evidence, say, “ after evidence being given to them thereupon, withdrew ”) from the bar here, to consider of their verdict to be given of, and upon the premises ; and after they had considered thereof, and agreed among themselves, they returned to the said bar, to give their verdict in this behalf : upon which the said *A. B.* being solemnly called, comes not, nor does he further prosecute his bill (or, writ) against the said *C. D.* Therefore, &c.

— and the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, were chosen, tried and sworn ; and on the behalf of the said *C. D. E. F.* and *G. H.* (the defendants,) it was given in evidence to the jurors aforesaid, that the said *C. D.* was an *headborough*, and that what he did was in the execution of his office of *headborough* aforesaid ; and that what the said *E. F.* and *G. H.* respectively did, was in aid of the said *C. D.* and by his command ; upon which the jurors aforesaid withdrew from the bar, &c. (as in the last.)

Say upon their oath, that the said *C. D.* did not undertake or promise, in manner and form as the said *A. B.* hath within complained against him. Therefore, &c.

— as to the first issue within joined between the said parties, upon their oath say, that the said *C. D.* did not undertake or promise, to an amount beyond the sum of — *l.* within-mentioned, in manner and form as the said *A. B.* hath within in that behalf alleged : and as to the last issue within joined between the said parties, the jurors aforesaid, upon their oath aforesaid, say that the said *C. D.* did tender and offer to pay to the said *A. B.* the sum of — *l.* parcel of the several sums of money in the

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XXXVII.

(§ 36.)

The like, where some defendants are acquitted, and damages assessed against others, who let judgment go by default.

Prac. 900.

(§ 37.)

Postea, where a juror is withdrawn.

Prac. 861, 2.

(§ 38.)

Postea for the defendant, on a nonsuit.

Prac. 900.

(§ 39.)

The like, in trespass, against a peace officer.

Prac. 900.

(§ 40.)

The like, on a verdict, on non assumpsit.

Prac. 900.

(§ 42.)

The like, on a plea of tender as to part, and non assumpsit as to the residue.

Prac. 900.

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(§ 43.)

The like, where one defendant had let judgment go by default.

Prac. 900.

(§ 44.)

The like, on a plea of set off.

Prac. 900.

(§ 45.)

The like, for an executor, on *non assumpsit* by the testator.

(§ 46.)

The like, on *plene administravit*.

Prac. 900.

(§ 47.)

The like, on *nil debet*.

Prac. 900.

(§ 48.)

The like, on *non est factum*.

Prac. 900.

(§ 49.)

The like, on the statute of usury; and for the plaintiff, on *non est factum*.

Prac. 900.

(§ 50.)

The like, on not guilty, in case.

Prac. 900.

(§ 51.)

The like, on not guilty, in trespass.

Prac. 900.

(§ 52.)

The like, on not guilty, and a justification, where the jury are discharged as to the latter.

within declaration mentioned, in manner and form as the said *C. D.* hath within in that behalf alleged. Therefore, &c.

Say upon their oath, that the said *C. D.* did not undertake or promise in manner and form as the said *A. B.* hath within complained against him: And hereupon the said jurors are discharged from inquiring against the within-named *E. F.* what damages the said *A. B.* hath sustained, by reason of the premises within-mentioned. Therefore, &c.

Say upon their oath, that the said *A. B.* was and is indebted to the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alleged. Therefore, &c.

Say upon their oath, that the within-named *E. F.* in his life-time did not undertake or promise, in manner and form as the said *A. B.* hath within in that behalf alleged. Therefore, &c.

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (*or, by original*, of suing out the original writ of the said *A. B.* in this behalf,) had not any goods or chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, as the said *C. D.* hath within in pleading alleged. Therefore, &c.

Say upon their oath, that the said *C. D.* doth not owe to the said *A. B.* the within-mentioned sum of — *l.* or any part thereof, as the said *A. B.* hath within in that behalf alleged. Therefore, &c.

Say upon their oath, that the within-mentioned writing obligatory is not the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alleged. Therefore, &c.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alleged: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid, upon their oath aforesaid say, that it was corruptly, and against the form of the statute in such case made and provided, agreed between the said *A. B.* and the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alleged. Therefore, &c.

Say upon their oath, that the said *C. D.* is not guilty of the premises within laid to his charge, in manner and form as the said *A. B.* hath within complained against him. Therefore, &c.

Say upon their oath, that the said *C. D.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him. Therefore, &c.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is not guilty, &c. (*as in last.*) And hereupon the said jurors, by the direction of the said chief-justice, (*or, justices of assize,*) and with the consent of the said parties respectively, are discharged from giving any verdict on the last issue within joined between the parties aforesaid. Therefore, &c.

Afterwards, that is to say, on the day and at the place within contained, *(as in a common postea, to the finding of the jury, which varies according to the facts of the case; and, after stating them, conclude as follows:)* But whether or not, upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, the said *C. D.* did undertake and promise, *(or, in case, is guilty of the premises, or, in trespass, of the trespasses, within specified,)* the jurors aforesaid are altogether ignorant; and thereupon they pray the advice of the court of the said lord the king before the king himself, *(or in C. P. "of the court of the said lord the king of the Bench," or, in the Exchequer, "before the barons of his Exchequer at Westminster:")* And if, upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* did undertake and promise *(or, is guilty of the premises, or, trespasses, aforesaid,)* then the jurors aforesaid, upon their oath aforesaid, say that the said *C. D.* did undertake, (&c.) *or, is guilty, (&c.)* in manner and form as the said *A. B.* hath within thereof complained against him; and in that case they assess the damages of the said *A. B.* by reason thereof, over and above his costs and charges by him about his suit in this behalf expended, to — *l.*, and for those costs and charges to 40*s.* But if, upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* did not undertake, (&c.) *or, is not guilty, (&c.)* then the jurors aforesaid, upon their oath aforesaid, say that the said *C. D.* did not undertake, (&c.) *or, is not guilty, (&c.)* in manner and form as the said *A. B.* hath within thereof complained against him. And because, &c. *(post, 334, 5.)*

In the King's Bench, *(or Common Pleas.)* *A. B.* plaintiff, &c. (185.)

This was an action of —, tried before the right honourable *Charles Lord Tenterden, or, Sir William Draper Best* knight, at the sittings for *London, or Middlesex*, in, or after, — term last; *(or, at the assizes, before the honourable Mr. Justice —, at the last spring, or summer, assizes, in and for the county of —;)* when a verdict was found for the plaintiff, for — *l.* damages, and costs of suit; subject to the opinion of the court, upon the following

CASE.

(Here state the facts specially, as proved or agreed to by the parties at the trial, and proceed as follows:)

The question for the opinion of the court is, whether, &c. *(stating the question;)* and if the court shall be of opinion, that, &c. *(as insisted by the plaintiff's counsel,)* then the verdict is to be entered for the plaintiff, as aforesaid; but if the court shall be of a contrary opinion, then a verdict is to be entered for the defendant, *(or, "a nonsuit is to be entered.")*

Afterwards, that is to say, on the day and at the place within contained, before —, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, and —, one of the barons of our said lord the king, of his court of

(§ 53.)
Postea, on special verdict, in assumpsit, case, or trespass.
Prac. 897.

(§ 54.)
Special case.
Prac. 898.

(§ 55.)
Demurrer to evidence, by the defendant, when the damages are as-

sessed conditionally, at the assizes.

Prac. 865, 6.

Exchequer at *Westminster*, and others their fellows, justices of our said lord the king, assigned to take the assizes in and for the county of —, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, and being chosen, tried and sworn, to say the truth of the matters within contained, the said *A. B.* to prove and maintain the issue within joined on his part, shews in evidence to the jury aforesaid, by *E. F.* a witness duly sworn in that behalf, that, &c. (*here state the evidence on the part of the plaintiff:*) And the said *C. D.* says, that the aforesaid matters, to the jurors aforesaid in form aforesaid shewn in evidence by the said *A. B.* are not sufficient in law to maintain the said issue within joined, on the part of the said *A. B.*; and that he the said *C. D.* to the matters aforesaid, in form aforesaid shewn in evidence, hath no necessity, nor is he obliged by the law of the land to answer: and this he is ready to verify, wherefore for want of sufficient matter in that behalf, shewn in evidence to the jury aforesaid, the said *C. D.* prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that the said *A. B.* may be barred from having his said action against the said *C. D.* &c.

J. Nickson.

And the said *A. B.* for that he hath shewn in evidence to the said jurors, sufficient matter in maintenance of the said issue, which matter the said *C. D.* doth not deny, nor in any manner answer thereto, prays judgment, and his damages by reason of the premises, to be adjudged to him, &c. Whereupon it is told to the jurors aforesaid, that they shall inquire what damages the said *A. B.* hath sustained, as well by reason of the matter shewn in evidence as aforesaid, as for his costs and charges by him about his suit in this behalf expended, in case it shall happen that judgment shall be given upon the evidence aforesaid, for the said *A. B.* And the jurors aforesaid, upon their oath aforesaid, thereupon say, that if it shall happen that judgment shall be given for the said *A. B.* upon the evidence aforesaid, then they assess the damages of the said *A. B.* by him sustained, by reason of the matter shewn in evidence as aforesaid, besides his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to —*s.* And thereupon the said jurors, by the assent of the said parties, are discharged from giving any further verdict upon the premises.

H. Gahagan.

Afterwards, that is to say, on the day and at the place within contained, &c. (*as in the last, mutatis mutandis, to the prayer at the end of the demurrer, which is as follows:*) prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that his damages by reason of the premises within-mentioned may be adjudged to him, &c.

John George.

And the said *C. D.* for that he hath shewn in evidence to the jury aforesaid, sufficient matter to maintain the said issue within joined, on the part of the said *C. D.* and which he is ready to verify, and forasmuch as

(§ 56.)

Joinder in demurrer.

Prac. 865.

(§ 57.)

Demurrer to evidence, by the plaintiff, when the jury are discharged.

Prac. 865, 866, 7.

(§ 58.)

Joinder in demurrer.

Prac. 865.

the said *A. B.* doth not deny nor in any manner answer the said matter, prays judgment, and that the said *A. B.* may be barred from having his aforesaid action against him, and that the jury aforesaid may be discharged from giving their verdict upon the said issue, &c. Wherefore let the jury aforesaid be discharged by the court here, by the assent of the parties, from giving any verdict thereupon. *G. N. Collingwood.*

— to wit. Be it remembered, that in the term of —, in the — year of the reign of our sovereign lord *George* the Fourth, now king of the united kingdom of *Great Britain* and *Ireland*, &c. came *A. B.* by — his attorney, into the court of our said lord the king before the king himself at *Westminster*. and impleaded *C. D.* in a certain plea of trespass on the case upon promises; on which the said *A. B.* declared against him, that, &c. (*set out the declaration and other pleadings, and proceed as follows:*) And thereupon issue was joined between the said *A. B.* and the said *C. D.* And afterwards, to wit, at the sittings of *nisi prius*, holden at the *Guildhall* of the city of *London* aforesaid, in and for the said city, on — the — day of —, in the — year of the reign of our said lord the king, before the right honourable *Charles* Lord *Tenterden*, chief-justice of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, *John Henry Abbott* Esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, the aforesaid issue so joined between the said parties as aforesaid, came on to be tried by a jury of the city of *London* aforesaid, for that purpose duly impanelled, that is to say, *E. F.* of —, *G. H.* of —, &c. (*names and additions of jury,*) good and lawful men of the said city of *London*: At which day, came there as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the jurors of the jury aforesaid, impanelled to try the said issue, being called, also came, and were then and there in due manner chosen and sworn to try the same issue; and upon the trial of that issue, the counsel learned in the law for the said *A. B.* to maintain and prove the said issue on his part, gave in evidence, that, &c. (*here set out the evidence on the part of the plaintiff, and afterwards that on the part of the defendant, and then proceed as follows:*) Whereupon the said counsel for the said *C. D.* did then and there insist before the said chief-justice, on the behalf of the said *C. D.* that the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, were sufficient, and ought to be admitted and allowed as decisive evidence, to entitle the said *C. D.* to a verdict, and to bar the said *A. B.* of his action aforesaid; and the said counsel for the said *C. D.* did then and there pray the said chief-justice, to admit and allow the said matters so produced and given in evidence for the said *C. D.* to be conclusive evidence in favour of the said *C. D.* to entitle him to a verdict in this cause, and to bar the said *A. B.* of his action aforesaid: But to this the counsel learned in the law of the said *A. B.* did then and there insist, before the said chief-justice, that the same were

(§ 59.)
Bill of exceptions, separate from the record, as to the effect of evidence, in *K. B.*
Prac. 863, 4.

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not sufficient, nor ought to be admitted or allowed, to entitle the said *C. D.* to a verdict, or to bar the said *A. B.* of his action aforesaid; and the said chief-justice did then and there declare, and deliver his opinion to the jury aforesaid, that the said several matters so produced and given in evidence on the part of the said *C. D.* were not sufficient to bar the said *A. B.* of his action aforesaid, and with that direction left the same to the said jury; and the jury aforesaid then and there gave their verdict for the said *A. B.* and — *l.* damages; whereupon the said counsel for the said *C. D.* did then and there, on the behalf of the said *C. D.* except to the aforesaid opinion of the said chief-justice, and insisted on the said several matters, as an absolute bar to the said action: And inasmuch as the said several matters so produced and given in evidence on the part of the said *C. D.* and by his counsel aforesaid objected and insisted on as a bar to the action aforesaid, do not appear by the record of the verdict aforesaid, the said counsel for the said *C. D.* did then and there propose their aforesaid exception to the opinion of the said chief-justice, and requested him to put his seal to this bill of exceptions, containing the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, according to the form of the statute in such case made and provided: And thereupon the said chief-justice, at the request of the said counsel for the said *C. D.* did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, on the said — day of —, in the — year of the reign of his present majesty.

(As in the last, mutatis mutandis, to the end of the statement of the plaintiff's evidence, and then as follows:)

Whereupon the said counsel for the said *A. B.* assignee as aforesaid, did then and there insist before the said chief-justice, on behalf of the said *A. B.* assignee as aforesaid, that the said several matters so produced and given in evidence on the part of the said *A. B.* assignee as aforesaid, were sufficient, and ought to be admitted and allowed as sufficient evidence, unless the same should be explained or answered by evidence on behalf of the said *C. D.* to entitle the said *A. B.* assignee as aforesaid, to a verdict; and prayed the said chief-justice, to direct the jury to that effect: But the counsel learned in the law of the said *C. D.* did not offer any evidence on his behalf; but did then and there insist, before the said chief-justice, that the said several matters did not require any explanation or answer by evidence, and were not sufficient, nor ought to be admitted or allowed to entitle the said *A. B.* assignee as aforesaid, to a verdict; and that upon the evidence so given by the said *A. B.* assignee as aforesaid, the said *C. D.* was entitled to a verdict; and prayed the said chief-justice so to direct the jury: but the said chief-justice did then and there declare, and deliver his opinion to the jury aforesaid, that the said several matters, so produced and given in evidence on the part of the said *A. B.* assignee as aforesaid, were sufficient, and ought to be admitted and allowed to entitle the said *A. B.* assignee as aforesaid, to a verdict; and that the said *C. D.* was not entitled to the property transferred and

(§ 60.)
The like, in
trower, by as-
signees of a
bankrupt, where
no evidence was
given for the
defendant.

Proc. 863, 4.

delivered to him; and that the delivery and transfer of the property to the said *C. D.* was fraudulent and void, as against the creditors of the said *E. F.* (the bankrupt,) if the jury should be of opinion, that it was made when the said *E. F.* was insolvent, and must have contemplated that he should become bankrupt; and, with that direction, the said chief-justice left the same to the jury; and the jury aforesaid then and there gave their verdict for the said *A. B.* assignee as aforesaid, for — *l.* damages: Whereupon the said counsel for the said *C. D.* did then and there except to the aforesaid opinion of the said chief-justice, &c. (as in last.)

(After the end of the issue, and award of *venire facias*, proceed as follows:)

Which said issue, in form aforesaid joined between the said parties, afterwards, to wit, at the sittings of *nisi prius*, holden at *Westminster-hall* in and for the county of *Middlesex*, on — the — day of —, in the — year of the reign of our lord the now king, before the right honourable *Charles Lord Tenterden*, chief-justice of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, *John Henry Abbott* Esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, came on to be tried by a jury of the said county of *Middlesex*, for that purpose duly impanelled: At which day, came there as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid; and the jurors of the jury aforesaid, impanelled to try the said issue, being called, also came, and were then and there in due manner chosen and sworn to try the same issue: And upon the trial of that issue, one *E. F.* was produced and examined upon oath as a witness, by the counsel learned in the law for the said *A. B.* in support of the said action; and upon the cross-examination of the said *E. F.* by the counsel learned in the law for the said *C. D.* the said *E. F.* was asked by the said last-mentioned counsel, whether he had not been imprisoned, upon a conviction for forging a coal-meter's ticket: Whereupon the said chief-justice then and there interposed, and before the said *E. F.* had given any answer to the said question, declared and delivered his opinion, that the said *E. F.* was not bound to answer the said question; and the said *E. F.* thereupon then and there refused to answer the same: And afterwards, at the said trial, the said chief-justice, in summing up the evidence given in the said cause to the jury aforesaid, did further declare and deliver his opinion to the said jury, that the said *E. F.*'s refusal to answer the said question, threw no manner of discredit upon him the said *E. F.*; and the jury aforesaid thereupon then and there gave their verdict for the said *A. B.* and — *l.* damages: Whereupon the said counsel for the said *C. D.* did then and there, on behalf of the said *C. D.* except to the aforesaid opinion of the said chief-justice, and insisted that the said *E. F.* was bound to answer the said question, and that his refusal to answer the same was, and ought to be considered by the said jury, as an impeachment of his credit: And inasmuch as the said several matters herein before mentioned, do not appear by the record, &c. (as in the last.)

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XXXVII.

(§ 61.)

The like, to be tacked to the record, as to a witness's being bound to answer a question tending to disgrace him, in *K. B.*

Prac. 863, 4.

CHAP. XXXVIII.

RULES for JUDGMENT, and NEW TRIALS; and in ARREST of JUDGMENT, &c.

(§ 1.)
Præcipe for rule
 for judgment, on
postea, in K. B.
Prac. 903.

B. } **RULE** for judgment, on *postea*.
 v. } *E. F.* plaintiff's (or, *G. H.* defendant's)
 D. } attorney, (or, agent.)
 — 18—.

(§ 1. a.)
 Form of rule
 thereon.
Prac. 903.

B. } Unless something be said in arrest of judgment, on the — day
 v. } of — instant, let judgment be entered for the plaintiff, (or de-
 D. } fendant.) By the Court.

(§ 2.)
 Rule *nisi*, for a
 new trial, in
 K. B.
Prac. 487, 8.
 904.

B. } It is ordered, that the plaintiff, (or, defendant,) upon notice of
 v. } this rule to be given to his attorney, shall, upon — next after
 D. } —, shew cause, why the verdict (or, nonsuit) obtained in this
 cause, should not be set aside, and a new trial had between the parties;
 and in the mean time, that proceedings be stayed. Upon the motion of
Mr. John Campbell. By the Court.

(§ 3.)
 The like, for
 setting aside a
 verdict, and
 entering a
 nonsuit, or for
 a new trial, in
 C. P.

Prac. 488, 9.
 904.

B. } Upon reading the record of the issue joined between the said par-
 v. } ties, it is ordered, that the plaintiff, upon notice of this rule to be
 D. } given to his attorney or agent, shall shew cause to this court, on
 — the — instant, (or next,) why the verdict found for him on the
 trial of this cause, at the last assizes holden for the county of —,
 should not be set aside, and a nonsuit entered, or a new trial had be-
 tween the said parties; and in the mean time, and until this court shall
 otherwise order, let the entry of final judgment upon the said verdict be
 stayed, and the *postea* remain in the hands of the associate.

By the Court.

(§ 4.)
 Rule *nisi*, for
 arresting the
 judgment, in
 K. B.
Prac. 489. 928.

B. } It is ordered, that the plaintiff, upon notice, &c. (as above,)
 v. } shall upon, &c. (as above,) shew cause, why the judgment on the
 D. } verdict obtained in this cause, should not be arrested; and in the
 mean time, that proceedings be stayed. Upon the motion of *Mr. Wil-*
liam Tancred. By the Court.

(§ 5.)
 Rule for arrest-
 ing judgment,
 in C. P.
Prac. 489. 928.

B. } Upon reading the record of *nisi prius* between the said parties,
 v. } it is ordered, that the entry of final judgment, upon the verdict
 D. } found for the plaintiff on the trial of this cause, be stayed, until
 this court be moved on behalf of the plaintiff, and shall otherwise order.
 Let notice of this rule be given to the plaintiff, his attorney or agent;
 and let notice of the motion to discharge this rule be given to the defend-
 ant, his attorney or agent.

In the Common Pleas.

B. against D.

(§ 6.)

Take notice, that this honourable court will be moved to-morrow, or so soon after as counsel can be heard, that the rule made in this cause, the — day of — last, may be discharged.

Notice of motion, to discharge the above rule.

Prac. 928, 9.

Your's, &c.

E. F. plaintiff's attorney,

To Mr. *G. H.* defendant's attorney,

(*or, agent.*)

(*or, agent.*)

(*After the postea, proceed as follows :*) And hereupon the said *A. B.* prays judgment to be given for him, upon the verdict aforesaid : But because it appears to the court of the said lord the king before the king himself now here, (*or, in C. P. to the justices here,*) that the writ and declaration aforesaid are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.* ; therefore, omitting to give judgment upon the verdict aforesaid, it is told to the parties aforesaid, by the said court (*or, justices*) here, that they go thereof without day, &c.

(§ 7.)

Entry of arrest of judgment, for insufficiency of declaration.

Prac. 928, 9.

CHAP. XXXIX.

JUDGMENTS *after* VERDICT, or NONSUIT, &c.

(§ 1.)
Judgment for
the plaintiff, on
a verdict in *assumpsit*, in a
town cause, in
K. B.

Prac. 930, 31.

AS yet of — term, (*the term of which issue was joined,*)
in the — year of the reign of king George the Fourth.

Witness Charles Lord Tenterden.

Ellenborough.

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.*
of a plea of trespass on the case upon promises.

— to wit. The said *C. D.* puts in his place *G. H.* his attorney, at
the suit of the said *A. B.* in the plea aforesaid.

— to wit. Be it remembered, that on — next after —, in this
same term, before our lord the king at *Westminster*, comes *A. B.* by
E. F. his attorney, and brings into the court of our said lord the king
before the king himself now here, his certain bill against *C. D.* being in
the custody of the marshal of the Marshalsea of our said lord the king
before the king himself, of a plea of trespass on the case, &c.; and there
are pledges for the prosecution thereof, to wit, *John Doe* and *Richard
Roe*; which said bill follows in these words, that is to say: — (to
wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the
Marshalsea of our lord the now king before the king himself; for that
wherças, &c. (*here copy the declaration to the end, omitting the pledges,
and proceed on a new line as follows:*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the
wrong and injury, when, &c. and says that he did not undertake or pro-
mise, in manner and form as the said *A. B.* hath above thereof com-
plained against him; and of this he the said *C. D.* puts himself upon the
country; and the said *A. B.* doth the like: Therefore let a jury there-
upon come before our said lord the king at *Westminster*, on — next
after —, by whom, &c. and who neither, &c. to recognize, &c. be-
cause as well, &c.; the same day is given to the parties aforesaid, at the
same place. Afterwards, the process thereof is continued between the
parties aforesaid, of the plea aforesaid, by the jury being respited be-
tween them, before our said lord the king at *Westminster*, until —
next after —, unless the right honourable Charles Lord Tenterden,
his majesty's chief-justice assigned to hold pleas in the court of our said
lord the king before the king himself, shall first come on — the —
day of —, at the *Guildhall* of the city of *London*, (or, at *Westminster-
hall*, in the county of *Middlesex*;) according to the form of the statute in
such case made and provided, for default of the jurors, because none of
them did appear. At which day, before our said lord the king at *West-*

minster aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice, before whom the said issue was tried, hath sent hither his record, had before him in these words, to wit: Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Charles Lord Tenterden*, the chief-justice within mentioned, *John Henry Abbott Esquire* being associated to the said chief-justice, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within mentioned; and the jurors of the jury, whereof mention is within made, being summoned, also come, who to speak the truth of the matters within contained, being chosen tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the premises, besides his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages costs and charges, by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

— to wit. *C. D.* was attached (or, summoned) to answer *A. B.* &c. (here copy the issue, to the end of the award of the venire facias, and proceed on the same line as follows:) At which day, the jury between the parties aforesaid, of the plea aforesaid, was respited thereupon between them here, until — then next following, unless Sir *William Draper Best* knight, his majesty's chief-justice of the bench here, assigned according to the form of the statute in that case made and provided, shall first come on the — day of —, at *Westminster* in the county of *Middlesex*, in the great hall of pleas there; for default of the jurors, because none of them did appear: And now here at this day, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice, before whom the said issue was tried, hath sent hither his record, had before him in these words, that is to say: Afterwards, &c. (copy postea to the end, and then add the judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages, costs and charges, by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the justices here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

(§ 2.)
The like, in
C. P.
Prac. 930, 31.

Judgment
signed, &c.
(186.)

Mercy.

(As before, p. 332. to the end of the issue, and award of venire, and then as follows:) Afterwards, the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next

(§ 3.)
The like, in a
country cause,
with a continu-
ance after ver-
dict, by curia

advisari vult, in
K. B.

Prac. 930, 31.

after —, unless his majesty's justices assigned to take the assizes in and for the county of —, shall first come on — the — day of —, at — in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said justices of our said lord the king, before whom the said issue was tried, have sent hither their record, had before them in these words, to wit: Afterwards, &c. (*here copy the postea.*) And because the court of our said lord the king before the king himself now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, to hear the judgment of the said court thereupon; for that the court of our said lord the king before the king himself now here, are not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid: And hereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it is considered by the same court, that the said *A. B.* do recover against the said *C. D.* his said damages, &c. (*as in the last but one.*)

(§ 4.)

The like, in
C. P.

Prac. 930, 31.

(*As before, p. 333. to the end of the issue, and award of venire facias, and then as follows:*) At which day, the jury between the parties aforesaid, of the plea aforesaid, was respited thereupon between them here, until — then next following, unless his majesty's justices assigned to take the assizes in and for the county of —, shall first come on — the — day of —, at — in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: And now here at this day, comes the said *A. B.* by his attorney aforesaid; and the said justices of assize, before whom the said issue was tried, have sent hither their record, had before them in these words, to wit: (*here copy the postea.*) And because the justices here are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid here, until —, to hear their judgment thereon; for that the said justices here are not yet advised thereof, &c. At which day come here, as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it is considered by the same justices here, that the said *A. B.* do recover against the said *C. D.* his damages, &c. (*as in the last but one.*)

Prac. 678.

(§ 5.)

The like, on a
special verdict,
in K. B.

Prac. 930, 31.

(*As before, § 1. & 3. to the end of the postea, and then as follows:*) And because the court of our said lord the king before the king himself now here, are not yet advised, &c. (*as in the last but one, to the words, "not yet advised thereof, &c."*) At which day, before our said lord the

king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid: And hereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said *C. D.* did undertake, &c. (333.) or that the said *C. D.* is guilty, (&c.) in manner and form as the said *A. B.* hath above thereof complained against him. Therefore it is considered, &c. (*stating the judgment.*)

(*As before, § 2. & 4. to the end of the postea, and then as follows:*) And because the justices here are not yet advised, &c. (*as in § 4. to the asterisk*) it appears to the said justices here, that the said *C. D.* did undertake, (&c.) or, is guilty, (&c.) in manner and form as the said *A. B.* hath above thereof complained against him. Therefore it is considered, &c. (*stating the judgment.*)

(*After the issue, and award of mittimus, proceed as follows:*) And afterwards, to wit, on — then next following, (*which day the parties aforesaid had prefixed to them, by — and —, justices assigned to take the assizes for the said county of —, to hear judgment thereupon,*) before our said lord the king at *Westminster*, comes (*or, in the Common Pleas and Exchequer, "comes here," omitting "before our said lord the king at Westminster,"*) the said *A. B.* by his attorney aforesaid; and the said justices sent here the said record, with all things done thereupon before them at — aforesaid, in these words, to wit: Afterwards, &c. (*here copy the postea, and proceed as follows:*) Whereupon all and singular the premises being seen, and by the court here fully understood, and mature deliberation being thereupon had, it is considered by the same court, &c. (*stating the judgment.*)

(*After the issue, and award of mittimus, proceed as follows:*) And afterwards, to wit, on — next after —, (*which day the parties aforesaid had prefixed to them, by the said mayor of the said city of Chester, to hear judgment thereupon,*) before our said lord the king at *Westminster*, comes, &c. (*as in the last,*) and the said chamberlain on that day remitted into the said court of our said lord the king before the king himself, (*or, in C. P. before his justices, or, in the Exchequer, before the barons of his Exchequer,*) at *Westminster* aforesaid, the record of the plaint aforesaid, together with every thing that had been done thereupon, before the said mayor, in pursuance of the writ of our said lord the king to him in that behalf directed, in these words, to wit: Afterwards, &c. (*here copy the postea, &c. as in the last.*)

(*To the end of the postea, and then as follows:*) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages, costs and charges, by the jurors aforesaid in form aforesaid assessed, and also — for his said costs and charges, by the court of our said lord the king now here, (*or, in C. P. by the justices here*) adjudged of increase to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; which said damages, costs and charges, amount in the whole to —l. and the said *C. D.* in mercy,

CHAP.
XXXIX.

(§ 6.)
The like, in
C. P.
Prac. 930, 31.

(§ 7.)
The like, where
the cause was
tried in a county
palatine.
Prac. 932.

(§ 8.)
The like, where
it was tried in
the city of
Chester.
Prac. 932.

(§ 9.)
The like, where
one issue is
found for the
plaintiff, and
another for the
defendant.
Prac. 930, 31.

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&c. And the said *A. B.* is also in mercy, for his false claim against the said *C. D.* as to the premises whereof the said *C. D.* is acquitted by the said jury in form aforesaid; and let the said *C. D.* go thereof without day, &c.

(§ 11.)

The like, on a verdict for the plaintiff on one count, and for the defendant on another, with a *nolle prosequi* as to a third count, found for the plaintiff, on which no damages were assessed.

Prac. 930, 31.

(*After the postea, proceed as follows:*) But because the jurors aforesaid have not assessed any damages, on occasion of the not performing of the said last-mentioned promise and undertaking, the said *A. B.* saith, that he will not further prosecute his suit in that behalf against the said *C. D.*: And hereupon the said *A. B.* prays the judgment of the court, of and upon the premises aforesaid. Therefore it is considered by the court here, that the said *A. B.* do recover against the said *C. D.* his said damages, costs and charges, &c. (*as before, p. 335.*) And as to the several promises and undertakings in the said declaration secondly and lastly above-mentioned, let the said *C. D.* be acquitted, and go thereof without day, &c.

(§ 12.)

The like, on a consolidation rule, after verdict against defendant in the principal cause, with continuances by *curia advisari vult*, in C. P.

Prac. 930, 31.

(*Copy the issue, to the end of the award of the venire facias, and proceed as follows:*) At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon the said *A. B.* gives the justices here to understand and be informed, that after the last continuance of this cause, and before this day, to wit, on the — day of — in the — year of the reign of his present majesty, a certain order was made by the right honourable Sir William Draper Best knight, lord chief-justice of his said majesty's court of the bench here, in certain actions then depending in the same court here, by and at the suit of the said *A. B.* on the said writing or policy of assurance in the said declaration mentioned, that is to say, a certain action wherein *E. F.* was defendant, and a certain other action wherein *G. H.* was defendant, and a certain other action wherein *I. K.* was defendant, and the said action wherein the said *C. D.* was defendant; whereby, upon hearing the attornies or agents on both sides, and by their consent, and upon submission of the three last-mentioned defendants to be bound and concluded in the actions brought against them respectively, by the fate of such verdicts should be found in the first-named action, that is to say, in the said action against the said *E. F.* to the satisfaction of the judge before whom the same should be tried, and upon the defendant's undertaking to admit on the trial of the first-named action, his subscription to the policy in question, and the interest of the plaintiff, as averred in the declaration, the said chief-justice did order, that all proceedings in the three last-named actions should be stayed; the defendant in the first-named action consenting, in case a verdict should be found for the plaintiff, to the satisfaction of the judge before whom the same should be tried, that no writ of error should be brought for delay, nor any bill in equity filed, to be relieved against such verdict. And because the said first-named action against the said *E. F.* hath not yet been tried, a day is given to the parties aforesaid here, until —, to hear the judgment of the said justices in the premises, for that the said justices

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here are not yet advised thereof, &c. At which day, come here the parties aforesaid, by their attorneys aforesaid; and hereupon the said *A. B.* gives the justices here to understand and be informed, that a verdict hath been found in the said first-named action, for him the said *A. B.* against the said *E. F.* And upon this the said *A. B.* freely here in court remits to the said *C. D.* all damages sustained by him the said *A. B.* on occasion of the not performing of the several promises and undertakings in the last — counts of the said declaration mentioned; and he prays judgment, and his damages by him sustained, on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to be adjudged to him, &c. And because the justices here are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid here, until —, to hear their judgment thereupon, for that the said justices here are not yet advised thereof, &c. At which day, come here the parties aforesaid, by their attorneys aforesaid; and hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, and it being suggested and proved, and manifestly appearing to the said justices here, that a verdict has been found in the said first-named action, for the said *A. B.* against the said *E. F.* to the satisfaction of the judge before whom the said first-named action was tried, and that the said *A. B.* hath sustained damages, on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended; therefore, it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also —*l.* for his said costs and charges, by the justices here adjudged to the said *A. B.* and with his assent; which said damages, costs and charges, in the whole amount to —*l.* and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the damages, so remitted as aforesaid, &c.

Judgment
signed, &c.
(186.)

Mercy.

(*To the end of the postea, and then as follows:*) And upon this the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on —, the said *E. F.* died, to wit, at —, and the said *C. D.* then and there survived him; which the said *C. D.* doth not deny, but admits the same to be true; therefore let all further proceedings in this cause against the said *E. F.* be stayed: Whereupon the said *A. B.* prays judgment against the said *C. D.* of and upon the premises: Therefore it is considered, &c. (*stating the judgment.*)

(§ 13.)
Suggestion of
the death of
one of the de-
fendants, after
verdict, and be-
fore judgment.
Prac. 725. 934.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* as executor (*or, administrator*) as aforesaid, his damages aforesaid, by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said

(§ 14.)
Judgment for
the plaintiff, on
a verdict in as-
sumpsi, against
an executor or
administrator.
Prac. 930. 931.

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damages, costs and charges, in the whole amount to —*l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (*or*, administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then the sum of —*l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*; and the said *C. D.* in mercy, &c.

Mercy.

(§ 15.)
The like, in
debt.
Prac. 930, 31.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to —*l.* by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c. (*Or, if the defendant has denied his deed, a capiatur should be entered, instead of a misericordia, thus:*) And let the said *C. D.* inas-much as he has denied his deed, be taken, &c.)

Mercy.

Capiatur.

(§ 16.)
The like, and
assessment of
damages, on
stat. 8 & 9 W.
III. c. 11. § 8.
Prac. 930, 31.

Therefore it is considered that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid, on occasion of the detention thereof, to *ls.* together with his costs and charges aforesaid, to *40s.* by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king before the king himself now here adjudged of increase to the said *A. B.* and with his assent: It is also considered, by his majesty's court here, that the said *A. B.* have execution against the said *C. D.* of the damages aforesaid, to —*l.* by the said jury in form aforesaid assessed, on occasion of the aforesaid breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided; and the said *C. D.* in mercy, &c.

Mercy.

(§ 17.)
The like, against
an executor or
administrator,
where the jury
find assets to
the amount of
part of the debt.
Prac. 930, 31.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (*or*, administrator) as aforesaid, his said debt, and also his damages aforesaid, by the said jury in form aforesaid assessed, and likewise —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; to be levied, as to the sum of —*l.* parcel of the said debt, being the value of the said goods and chattels of the said *E. F.* so found by the said jury to be in the hands of the said *C. D.* to be administered, and also as to the said —*l.* for the damages costs and charges aforesaid, of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, if he hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then the said —*l.* for the damages costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*; and as to the residue of the said debt, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: and the said *C. D.* in mercy, &c.

Mercy.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to —*l.* by the said jury in form aforesaid assessed, and also —*l.* for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; to be levied of the lands and tenements which were of the said *E. F.* in fee-simple, at the time of his death, and which came to and are now in the hands of the said *C. D.* by hereditary descent from the said *E. F.*: and the said *C. D.* in mercy, &c.

(§ 18.)
The like, against
an heir.
Prac. 937, 8.

Therefore it is considered, that the said *A. B.* who sues as aforesaid, do recover against the said *C. D.* for our said lord the king and for himself the said *A. B.* the said sum of —*l.* in the said — count of the said declaration mentioned, parcel of the said sum of —*l.* above demanded; and that our said lord the king have one moiety thereof to his own use, and that the said *A. B.* who sues as aforesaid, have the other moiety thereof to his own use, according to the form of the statute in such case made and provided: and the said *C. D.* in mercy, &c. And let the said *A. B.* who sues as aforesaid, be in mercy, for his false complaint against the said *C. D.* for the residue of the said sum of —*l.* whereof the said *C. D.* is acquitted; and the said *C. D.* go thereof without day, &c.

Mercy.
(§ 19.)
The like, in
debt *qui tam*,
where part is
found for the
plaintiff, and
part for the de-
fendant.
Prac. 930, 31.

(*As in the last, to the end of the judgment for the penalty, and then as follows:*) And it is further considered by the court here, that the said *A. B.* who sues as aforesaid, do recover against the said *C. D.* the said sum of —*l.* for his costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* who sues as aforesaid, and with his assent, according to the form of the same statute; which said several sums of —*l.* and —*l.* in the whole amount to —*l.*: and the said *C. D.* in mercy, &c. And let the said *A. B.* who sues as aforesaid, be in mercy, &c. (*as in the last.*)

Mercy.

(§ 20.)
The like, when
the plaintiff is
entitled to
costs.
Prac. 930, 31.

Therefore it is considered, that the said *C. D.* do account with the said *A. B.* for the time he was bailiff (*or*, receiver of the monies) of the said *A. B.* (*or*, was bailiff of the said *A. B.* and had the care and administration of the aforesaid goods and merchandizes, &c. to be merchandized and made profit of, for the said *A. B.*;) and the said *C. D.* in mercy, because he hath not before accounted, &c.

Mercy.

(§ 20. a.)
The like, in
account, *quid*
computet.
Prac. 1179.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the aforesaid —*l.* for the value of the goods and merchandizes aforesaid, and also —*l.* for his damages which he hath sustained, as well by reason of the interpleading aforesaid, as for his costs and charges by him about his suit in this behalf expended, by the court here adjudged to the said *A. B.* and with his assent; which said several sums of money, in form aforesaid recovered, in the whole amount to —*l.*; and the said *C. D.* in mercy, &c.

Mercy.

(§ 20. b.)
The like, *quid*
recuperet.
Prac. 1179.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the annual rent aforesaid, and arrears of the same, as well before the day of exhibiting the bill (*or*, suing out the original writ) afore-

Mercy.

(§ 20. c.)
The like, in
annuity.
Prac. 931.

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Mercy.

(\$ 21.)

The like, in
detinue.*Prac.* 930, 31.

said as afterwards, amounting to the sum of —*l.* and also his damages aforesaid, to —*l.* by the jurors aforesaid in form aforesaid assessed, and —*l.* by the court here adjudged of increase to the said *A. B.* and with his assent, for his costs and charges aforesaid ; which said arrears and damages in the whole amount to —*l.* ; and the said *C. D.* in mercy, &c.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels aforesaid, or the said —*l.* for the value of the same, if the said *A. B.* cannot have again the said goods and chattels, and his said damages to —*s.* beyond the value aforesaid, by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ; and the said *C. D.* in mercy, &c. And hereupon the sheriff is commanded, that he distrain the said *C. D.* by all his lands, &c. and that he answer for the issues, &c. so that he render to the said *A. B.* the goods and chattels aforesaid, or the said —*l.* for the value of the same : and in what manner, &c.

(\$ 22.)

The like, where
part is found for
the plaintiff,
and part for the
defendant.

Prac. 930, 31.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels, which by the jurors aforesaid are above found to be detained by the said *C. D.* from the said *A. B.*, or the said —*l.* for the value of the same, if the said *A. B.* cannot have again those goods and chattels, and his said damages to —, beyond the value aforesaid, by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ; and the said *C. D.* in mercy, &c. And the said *A. B.* is also in mercy, for his false claim of the residue of the said goods and chattels, whereof the said *C. D.* by the jurors aforesaid is above acquitted ; and let the said *C. D.* go thereof without day, &c. And hereupon the sheriff is commanded, that he distrain, &c. (*as in the last.*)

Mercy.

(\$ 23.)

Judgment for
the plaintiff,
after verdict in
the Exchequer,
in a town cause.

Prac. 930, 31.

(*Copy the issue and record, as before, p. 242. and 275. and proceed on the same line as follows :*) At which day, come here the parties aforesaid, by their attornies aforesaid ; and the aforesaid chief-baron, before whom, &c. sent here the tenor of this plea, together with the writ of *distringas* of the jurors aforesaid, with a panel of the names of the same jurors to the said writ annexed, and to the same tenor affixed ; which said tenor is thus indorsed : (*here copy the postea.*) Therefore it is considered by the barons here, that the said *A. B.* do recover, &c. (*stating the judgment.*)

Judgment
signed, &c.
(186.)

(\$ 24.)

The like, in a
country cause,
with continu-
ances by vic-
comes non misit
breve, and curia
advisari vult.

Prac. 930, 31.

Curia advisari
vult.

(*Copy the issue and record, as before, p. 242. and 276. and proceed on the same line as follows :*) At which day, come here the parties aforesaid, by their attornies aforesaid ; and the aforesaid justices of assize, before whom, &c. sent here the tenor of this plea, together with the writ of *distringas* of the jurors aforesaid, with a panel of the names of the same jurors, to the said writ annexed, and to the same tenor affixed ; which said tenor is thus indorsed : (*here copy the postea.*) And because the barons here will advise themselves of and upon the premises aforesaid, before they give their judgment therein, a day is given to the said parties here, until —, (*the first return of the next term,*) to hear their judgment

thereupon, for that the said barons are not yet advised thereof, &c. At which day, come here the said parties, by their attornies aforesaid: Whereupon all and singular the premises being seen, and fully understood by the barons here, and they having had mature deliberation thereof; it is considered by the barons here, that the said *A. B.* do recover, &c. (*stating the judgment.*)

Pleas at *Lancaster*, of the session of assizes there holden, on — the — day of — in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before Sir *John Bayley* knight, one of the justices of the said lord the king, of his court of King's Bench at *Westminster*, and Sir *George Sowley Holroyd* knight, one other of the justices of the said lord the king, of his said court of King's Bench at *Westminster*, justices of the said lord the king at *Lancaster*.

(§ 25.)
Entry of proceedings and judgment in *assumpsit*, in the Common Pleas at *Lancaster*; with continuances by *vicecomes non misit breve*, and *curia ad eisari eult.*
Prac. 920, 31.

Lancashire, (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c.; and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, &c. (*to the end of the declaration.*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him: And of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore the sheriff of the county aforesaid is commanded, that he cause to come here at *Lancaster*, the first day of the next general session of assizes here to be holden, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, here, &c.: At which day, to wit, on — the — day of — in the — year of the reign of the said lord the now king, come here as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff did not return the writ, nor hath he done any thing thereupon: Therefore, as before, the sheriff of the county aforesaid is commanded, that he cause to come here, at *Lancaster* aforesaid, the first day of the next general session of assizes here to be holden, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, here, &c. At which day, to wit, on — the — day of — in the — year of the reign of the said lord the now king, come here as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff of the said county, that is to say, — Esquire, now returneth the said writ of *venire facias*, to him in form aforesaid directed, together with a panel of the names of the jurors, to the same writ annexed, in all things served and executed; and the jurors thereupon impanelled, being demanded, come not: Therefore, by another writ of the said lord the king, the same sheriff of the county aforesaid is commanded, that he have the bodies, &c. before the justices of the said lord the king

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here, at *Lancaster* aforesaid, on — next to come, in the same session of assizes; the same day is given to the parties aforesaid, here, &c. At which day, to wit, on — the — day of — in the — year of the reign aforesaid, come here as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff, to wit, the said — Esquire, now here returneth, before the same justices, the last-mentioned writ of the said lord the king, to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed: And the jurors thereupon impanelled, being demanded, likewise come; who, to speak the truth concerning the premises above-mentioned, being elected tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him; and they assess the damages of the said *A. B.* on occasion of the premises, besides his costs and charges by him about his suit in this behalf laid out, to — *l.* and for those costs and charges to 40s.: But because the justices here are willing to advise themselves, of and upon the premises, before they give judgment thereon, day is given to the parties aforesaid, here, &c. until the first day of the next general session of assizes, here to be holden, to hear their judgment thereon; for that the said justices here are not yet advised thereof, &c. At which day, to wit, on — the — day of — in the — year of the reign aforesaid, come here the parties aforesaid, by their attornies aforesaid; and hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it is considered by the said justices here, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the jurors aforesaid in form aforesaid assessed, to — *l.* and also — *l.* for his costs and charges, by the court here of increase adjudged to the said *A. B.* and at his request; which said damages costs and charges amount in the whole to — *l.*; and the said *C. D.* in mercy, &c.

Mercy.

(§ 26.)
Judgment for
defendant, on
a nonsuit, in
K. B.
Prac. 868. 930.

As yet of — term, &c. (332.)

(*Entry of warrants of attorney, as before, p. 185. or 191, 2.; and, after copying the issue, to the end of the award of the venire facias, proceed as follows:*) Afterwards, the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, &c. (*as before, p. 332. in a town cause, or pp. 333, 4. in a country cause, to "default of the jurors, because none of them did appear:"*) And now here, at this day, comes the said *C. D.* by his attorney aforesaid; and the said chief-justice, (*or, justices of assize,*) before whom the said issue was tried, hath (*or, have*) sent hither his (*or, their*) record, had before him (*or, them*) in these words, (to wit:) Afterwards, &c. (*to the end of the postea, and then as follows:*) Therefore it is considered, that the said *A. B.* take nothing by his said bill, (*or, writ,*) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof with-

out day, &c.: And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(*To the end of the postea, and then as follows:*)

But because it is suggested and proved, and manifestly appears to the court (*or, in C. P. "to the justices," or, in the Exchequer, "to the barons"*) here, that the cause of action aforesaid arose in the principality of *Wales*, and that the said *C. D.* was resident within the dominion of *Wales*, at the time of service of the writ of —, served on him in this action; therefore it is considered, that the said *A. B.* take nothing by his said writ, (*or, by his bill aforesaid,*) against the said *C. D.* but that he be in mercy for his false claim; and that the said *A. B.* do go thereof without day, &c. It is also considered, &c. (*as in the last.*)

(*After the judgment of acquittal, and before the award of costs, proceed as follows:*)

And because it is suggested and proved, and manifestly appears to the court (*or, in C. P. to the justices, or, in the Exchequer, to the barons*) here, that this action was brought against the said *C. D.* for certain supposed trespasses committed by him the said *C. D.* in pursuance of a certain act of parliament, made and passed in the forty third year of the reign of his late majesty king George the Third, entitled "*An act for consolidating certain of the provisions contained in any act or acts relating to the duties under the management of the commissioners for the affairs of taxes, and for amending the same;*" and of a certain other act of parliament, made and passed in the forty-fifth year of the reign of his said late majesty, entitled, "*An act to repeal certain parts of an act made in the forty third year of his present majesty, for granting a contribution on the profits arising from property, professions, trades and offices; and to consolidate and render more effectual the provisions for collecting the said duties;*" and that a writ of *latitat*, (*or, capias, or quo minus, &c.*) was sued out for the commencement of the said action, within one calendar month next after the committing of the said supposed trespasses; and that no notice in writing was delivered, or left at the usual place of abode of the said *C. D.* by the attorney or agent for the said *A. B.* containing the cause or causes of action, and the name and place of abode of the said *A. B.* before the suing out of the said writ of *latitat*; therefore, according to the form of the statute in such case made and provided, it is further considered by the same court (*or, by the said justices, or barons*) here, that the said *C. D.* do recover against the said *A. B.* the sum of — *l.* for his treble costs of suit in this behalf, by the said court (*or, in C. P. by the justices, or, in the Exchequer, by the barons*) here adjudged to the said *C. D.* and with his assent; and that the said *C. D.* have execution thereof, &c.

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(§ 27.)

The like, on the Welsh judicature act.

Prac. 868. 930,
31. 969, 70.

(§ 28.)

The like, for treble costs, in an action against a commissioner, on the property tax acts.

Prac. 868.
930, 31. 989.

Judgment signed, &c. (186.)

Execution.

(§ 29.)
The like, on
verdict, for de-
fendant.

Prac. 868.
930, 31.

(§ 30.)
The like, for a
surviving de-
fendant.

Prac. 868.
930, 31.

Judgment
signed, &c.
(186.)

(§ 31.)
The like, in
trespass and
false imprison-
ment, against
several defend-
ants; where
some of them,
being constab-
les, were ac-
quitted on the
general issue,
with double
costs; and da-
mages were as-
sessed against
others, who let
judgment go by
default, in K. B.

Prac. 868.
930, 31. 989.
Execution.

Mercy.

(§ 32.)
The like, for
double costs,
on the court of
conscience act
for *Middlesex*.
Prac. 961. 989.

The judgment on verdict for defendant is, with the difference of the *postea*, the same as on a nonsuit, for which *vide ante*, pp. 342, 3.

(As before, p. 342. to the words, "none of them did appear," and then as follows:)

At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* comes not: And the said justices of assize, before whom the said issue was tried, have sent hither their record, had before them in these words, to wit: Afterwards, &c. (*copy the postea*.) And upon this the said *C. D.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on —, the said *E. F.* died, to wit, at —, and the said *C. D.* there survived him; which the said *A. B.* does not deny, but admits the same to be true; wherefore the said *C. D.* prays judgment of and upon the premises: Therefore it is considered, that the said *A. B.* take nothing by his bill (*or*, writ) aforesaid, but that he and his pledges to prosecute be in mercy, &c.; and that all further proceedings as to the said *E. F.* be stayed, and the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (*as before*, p. 343.)

Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill, against the said *C. D.* and *E. F.* but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* and *E. F.* do go thereof without day, &c. And because it is suggested and proved, and manifestly appears to the court here, by the certificate of the said chief-justice, before whom the said issue was tried, that the said *C. D.* and *E. F.* acted as constables, in the execution of their duty, in committing the supposed trespasses and imprisonments, for which this action was brought against them; therefore, according to the form of the statute in such case made and provided, it is further considered by the said court here, that the said *E. F.* and *G. H.* do recover against the said *A. B.* — *l.* for their double costs of suit in this behalf, by the said court here adjudged to the said *C. D.* and *E. F.* and with their assent; and that the said *C. D.* and *E. F.* have execution thereof, &c. It is also considered by the said court here, that the said *A. B.* do recover against the said *G. H.* and *I. K.* his said damages costs and charges, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges, in the whole amount to — *l.*: and the said *G. H.* and *I. K.* in mercy, &c.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the jurors aforesaid in form aforesaid assessed: And because it is suggested and proved, and manifestly appears to the court here, that the said *C. D.* at the time of bringing this action, did live and reside in the said county of *Middlesex*, and was liable to be summoned to the county court of *Middlesex* aforesaid; it is

further considered by the said court here, that the said *C. D.* do recover against the said *A. B.* the sum of —*l.* for his double costs of suit in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(*After the postea, proceed as follows:*)

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* for his damages aforesaid, by the jurors aforesaid in form aforesaid assessed: And because it is suggested and proved, and manifestly appears to the court here, that the said *C. D.* at the time of bringing this action, was residing and inhabiting in the eastern half of the hundred of *Brixton*, to wit, in the parish of —, in the county of *Surrey*, and was liable to be summoned to the court of requests for the town and borough of *Southmark*, and eastern half of the said hundred of *Brixton*, in the county of *Surrey* aforesaid; therefore, according to the form of the statute in such case made and provided, let the said *C. D.* be acquitted of the said sum of —*l.* (*the nominal costs found by the jury*.) for his costs and charges aforesaid, and any further or other costs and charges, which the said *A. B.* may have expended about his suit in this behalf; and go thereof without day, &c.

(*After the postea, proceed as follows:*)

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, in form aforesaid assessed: And upon this the said *C. D.* gives the court here to understand and be informed, that this action was brought against him the said *C. D.* by the said *A. B.* after the first day of *June*, in the year of our Lord 1803; and that he the said *C. D.* was arrested and held to special bail therein, to the amount of the sum of —*l.* which the said *A. B.* doth not deny, but admits the same to be true: And because it has been also suggested, and made appear to the satisfaction of the court here, upon motion made in court for that purpose, and upon hearing the said parties by affidavit, according to the form of the statute in such case made and provided, that the said *A. B.* the plaintiff in the said action, had not any reasonable or probable cause for causing the said *C. D.* to be arrested and held to special bail in such amount as aforesaid; therefore, by a rule or order of the same court here, in that behalf made, according to the form of the statute aforesaid, it is ordered and directed, that the said *C. D.* be allowed his costs of this action, to be taxed by the master; and which costs were afterwards duly taxed by him, at the sum of —*l.* And thereupon it is further considered by the said court here, that the said *C. D.* after deducting the said sum of —*l.* so recovered by the said *A. B.* in this action as aforesaid, from the amount of his the said *C. D.*'s said costs so taxed as aforesaid, have his execution against the said *A. B.* for the residue of such costs, according to the form of the statute aforesaid, &c.

In this case, the sum recovered was *less* than the amount of the defendant's costs: When it is *more*, there is no occasion for the latter part of the above entry.

Judgment
signed, &c.
(196.)

Execution.

(§ 33.)
The like, on a
verdict for
less than *five*
pounds, on
the court of
conscience act
for *Southmark*,
&c.

Prac. 961. 989.

(§ 34.)
Suggestion, on
stat. 43 Geo.
III. c. 46. § 3.
to entitle the
defendant to
costs, where
the plaintiff
recovers less
than the sum
for which the
defendant was
held to bail.

Prac. 982, 3.

(§ 35.)
Memorial of a
judgment.

Prac. 941.

(§ 36.)
Certificate of
the master
thereon.

Prac. 941.

(§ 37.)
Affidavit of
signature.

Prac. 941.

A Memorial to be registered, pursuant to the statute, &c.

Of a judgment recovered in his majesty's court of King's Bench, (Common Pleas, or Exchequer,) of — term, in the — year of the reign of king George the Fourth, between *A. B.* plaintiff and *C. D.* defendant, in a plea of debt for — *l.* and — damages (*or, as the plea is.*) Roll. —.

I do hereby certify, that judgment was signed in the above cause, the — day of — 18—.

Thomas Le Blanc.

E. F. of —, maketh oath and saith, that he was present, and did see *Thomas Le Blanc* Esquire, secondary of the court of King's Bench, sign the certificate of the judgment, in the memorial above-mentioned. *E. F.*

Sworn, &c. (175.)

CHAP. XL.

PROCEEDINGS *for the Recovery, and Taxation of Costs.*

IN the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 1.)
Affidavit, for
leave to enter
suggestion for
costs, on the
court of con-
science act for
London.

Prac. 960, 61.

C. D. of —, maketh oath and saith, that he this deponent and the above-named plaintiff, at the time of the commencement of this suit, were, and ever since have been, and still are respectively inhabiting and resiant in the city of *London*; and that he this deponent hath been for and during all that time, and still is, liable to be summoned to the court of requests held at the *Guildhall* of the said city; and that the said plaintiff, on the trial of the said cause, obtained a verdict for —, and no more.

Sworn, &c. (175.)

C. D.

B. } On reading the affidavit of *C. D.* the defendant, it is ordered,
v. } that the plaintiff, upon notice of this rule to be given to his attorney
D. } or agent, shall, upon — next after —, shew cause, why the said
defendant should not be at liberty to enter a suggestion on the roll, that
at the commencement of this action, and long before, he kept a house in
— within the city of *London*, and was liable to be warned or sum-
moned to appear before the commissioners of the court of requests for the
said city; and that this action was commenced in this court, for a debt
not exceeding 5*l.* and which was recoverable in the said court of requests;
and also, why the taxation of any costs to the plaintiff should not be
stayed: and in the mean time, let such taxation be stayed. Upon the
motion of Mr. *B. Wybourn*.

By the Court.

• (§ 2.)
Rule *non*, for
entering sug-
gestion thereon,
in K. B.
Prac. 489.
960, 61.

B. } Upon reading a rule made in this cause, on — the — day of
v. } this present term, the affidavit of *A. B.* and on hearing counsel on
D. } both sides; It is ordered, that the defendant be at liberty to enter a
suggestion on the record, setting forth, among other things, that at the
time of the commencement of this action, he the said defendant sought
his livelihood in the city of *London*, and was subject to the jurisdiction of
the court of requests for the said city; and that the plaintiff's several
causes of action arose within the jurisdiction of the court of requests,
holden at the *Guildhall* of the said city; and that the debt recovered in
the said action did not amount to 5*l.*: And it is further ordered, that the
said plaintiff do and shall lose his costs of this suit, pursuant to the
statute of the 39th & 40th years of his late majesty's reign, in that case
made and provided.

By the Court.

(§ 3.)
Rule absolute,
in C. P.
Prac. 489.
960, 61.

(§ 4.)
Affidavit, for
leave to enter
suggestion for
costs, on the
court of con-
science set for
Southwark, &c.
Prac. 960, 61.

In the King's Bench, &c. (347.)

A. B. plaintiff,
and
C. D. defendant.

C. D. of —, maketh oath and saith, that he this deponent, at the time of the commencement of this suit, was, and ever since has been, and still is, residing and inhabiting in the eastern half of the hundred of *Brixton*, to wit, in the parish of —, in the county of *Surrey* aforesaid; and that he this deponent hath been for and during all that time, and still is, liable to be summoned to the court of requests for the town and borough of *Southwark*, and eastern half of the said hundred of *Brixton*, in the county of *Surrey* aforesaid; and that the said plaintiff, on the trial of the said cause, obtained a verdict for — *l.* and no more: And lastly, this deponent saith, that the said debt was recoverable in the said court of requests.

C. D.

Sworn, &c. (175.)

— on (or, next after) —, &c. (175.)

(§ 5.)
Rule to be pre-
sent at taxing
costs, in *K. B.*
Prac. 484, 990.

B. } It is ordered, that the attorney for the —, shall give notice to
v. } *Mr.* —, attorney for the —, of the time of taxing costs between
D. } the parties, that he may be present, if he think fit.

Side Bar.

By the Court.

(§ 6.)
The like, in
C. P.
Prac. 484, 990.

B. } It is ordered, that — gentleman, shall have notice of the time of
v. } taxation of the costs in this cause, so that he may be present, if he
D. } shall think fit.

By the Court.

At the plaintiff's (or, defendant's) instance.

In the King's Bench, &c. (347.)

A. B. plaintiff, &c. (*id.*)

(§ 7.)
Affidavit of in-
creased costs.
Prac. 989.

E. F. of —, gentleman, attorney for the above-named plaintiff, and
A. B. of —, the said plaintiff, severally make oath and say; and first, this deponent *E. F.* for himself saith, that notice of trial was given in this cause, for the last assizes to be holden at — in the county of —, and that the same was tried before a special jury of the said county; and that he did cause — *subpœnas* to be issued out, on the part of the said plaintiff: and that *I. K.* of —, *L. M.* of —, &c. (*names and additions of witnesses*), were all of them severally *subpœnaed* on the part of the plaintiff. And this deponent further saith, that all the said witnesses were material and necessary for the said plaintiff; and that their places of residence are distant from this deponent's residence — miles; and that the said *I. K. L. M.* (&c.) were paid with their *subpœnas*, the sum of one shilling each. And this deponent further saith, that the usual place of his abode is distant from — aforesaid, — miles; and that he this deponent was necessarily absent from his place of abode, in going to, staying at, and returning from the assizes, — days; and that he did pay for conveying himself to and from — aforesaid, and for his expenses on the road, the sum of — *l.* And this deponent further saith, that the usual place of abode of the said *I. K.* is distant from — aforesaid, — miles; and that the usual place of abode of the said *L. M.* is distant from — aforesaid, — miles; (*and so of the rest*;) and that the said *I. K. L. M.* (&c.) were necessarily absent from their respective places

of abode, in going to, staying at, and returning from the said assizes, — days. And this deponent further saith, that the said *L. M.* was very old and infirm; and that he was obliged to hire a post-chaise to convey him from his place of abode to the said assizes, and back again, he the said *L. M.* not being able to travel in any other way; and that he did pay for the same, the sum of — *l.*; and that he did also pay to the said *I. K. I. M.* (&c.) for their loss of time, trouble and expenses, the sum of — *l.*: And this deponent further saith, that his brief consisted of — sheets of paper; and that he did pay to Mr. — with his brief, and his clerk, — *l.* and to Mr. — with his brief, and his clerk, — *l.* and also the following court fees; to the marshal, for entering the cause, —, to the jury, tipstaff, and bailiff, —, to the marshal and crier —, and to the associate —. And this deponent *A. B.* for himself saith, that he did pay for the expenses of himself and witnesses, at the said assizes, the sum of — *l.*

E. F.

Sworn, &c. (175.)

A. B.

In the King's Bench, &c. (347.)

A. B. plaintiff, &c. (*id.*)

(\$ 8.)

G. H. of —, and *C. D.* of —, severally make oath and say; and first, this deponent *G. H.* for himself saith, that he did, on — the — day of — last, personally serve the above-named plaintiff with a true copy of the rule, and the master's (or, prothonotary's) *allocatur* thereon, hereunto annexed, and at the same time shewed him the said original rule and *allocatur*; and that this deponent then demanded of him the costs allowed by the master, (in the King's Bench or Exchequer; or in the Common Pleas, "by the prothonotary,") on the said rule; but that the said plaintiff did not then, or at any time since, pay the same to this deponent: And this deponent *C. D.* for himself saith, that he hath not received the said costs, or any part thereof, but the same now remain due and unpaid to this deponent.

G. H.

C. D.

Sworn, &c. (175.)

B. } Upon reading a rule made in this cause, on — the — day of
v. } — in this present — term, the *allocatur* of Mr. Prothonotary
D. } *Wallington* made thereon, and the affidavit of *A. B.* It is ordered, that an attachment of contempt be issued forth against the defendant above-named, for non-payment of the sum of — *l.* pursuant to the said rule, and of the *allocatur* so made thereon as aforesaid. By the Court.

(\$ 9.)

Rule for attachment, for non-payment of costs, in C. P.

Prac. 489.
990, 91.

George the Fourth, &c. (14). To the sheriff of —, greeting: Attach *C. D.* so that you may have his body before our justices at *Westminster*, on —, to answer us, of and concerning such things as on our behalf shall be then and there objected against him; and have there then this writ. Witness Sir *William Draper Best* knight, &c. (205, 6.)

(\$ 10.)

Attachment, for non-payment of costs, in C. P.

Prac. 489.
990, 91.

A. B. against *C. D.* For non-payment of — *l.* costs, taxed by Mr. Prothonotary *Wallington*, pursuant to a rule of court, dated the — day of — 18—.

Indorsement thereon.

Know all men by these presents, That I *C. D.* of —, for divers good causes and considerations me hereunto moving, have made, ordained, au-

(\$ 11.)

Letter of attorney, to de-

mand costs, in
the Exchequer.
Prac. 991.

thorized, constituted and appointed, and by these presents, do make, ordain, authorize, constitute and appoint *G. H.* of — gentleman, my true and lawful attorney, for me and in my name, and to my use, to ask, demand and receive, of and from *A. B.* of —, the sum of —*l.* being costs allowed to me, by virtue of and under an order of his majesty's court of Exchequer at *Westminster*, bearing date the — day of — last past, and *allocatur* of the proper officer taxing the same, thereon made and given: and on payment thereof, acquittances, or other sufficient discharges for the same, for me and in my name, to make, seal and deliver, and to do all other lawful acts and things whatsoever, concerning the premises, as fully in every respect, as I myself might or could do, if I were personally present; hereby ratifying, confirming and allowing, all and whatsoever my said attorney shall in my name lawfully do, in and about the said premises, by virtue of these presents. In witness whereof, I have hereunto set my hand and seal, this — day of — in the year of our Lord 18—. *C. D.*

Sealed and delivered, &c. (90.)

In the Exchequer of Pleas.

A. B. plaintiff, &c. (347.)

(§ 12.)
Affidavit of demand of costs thereon, refusal of payment, and due execution of letter of attorney.

Prac. 991.

G. H. of —, and *I. K.* of —, severally make oath and say; and first, the said *G. H.* for himself saith, that he this deponent, on the — day of — instant, (*or* last,) personally served *A. B.* the above-named plaintiff, with a true copy of the rule, and master's *allocatur* thereon given, for costs taxed on the said rule, and letter of attorney hereunto annexed, and at the same time shewed him the said original rule and *allocatur*, and demanded of him the costs allowed by the master on the said rule, and also shewed to him the said letter of attorney from the said defendant, authorizing this deponent to receive the same; but the said *A. B.* refused (*or*, declined) to pay the same, and the same yet remains unpaid. And the said *I. K.* for himself saith, that he was present, and did see the said defendant *C. D.* duly execute the letter of attorney above-mentioned to be hereunto annexed; and that the name *C. D.* appearing to be the party executing the same, and the name *I. K.* subscribed as a witness to the due execution of the said letter of attorney, are respectively of the proper hand-writing of the said *C. D.* and this deponent.

Sworn, &c. (175.)

(§ 13.)
Subpoena for costs, on *non pros*, or for not proceeding to trial, in the Exchequer.
Prac. 489, 991.

George the Fourth, &c. (14.) To *A. B.* our debtor, greeting: We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay, or cause to be paid, to *C. D.* or the bearer thereof, the sum of —*l.* of lawful money of *Great Britain*, allowed to the said *C. D.* by our court of Exchequer at *Westminster*, for his costs and charges, by reason of the appearance of the said *C. D.* lately entered in our said court, on our writ of *subpoena*, prosecuted against him in our said court, on behalf of you the said *A. B.* and returnable in the office of pleas of our said court, at a day now past; whereupon you the said *A. B.* have exhibited no bill in our said court, against the said *C. D.* (*Or, if for not proceeding to trial*, "for his costs and charges by reason of his attendance at the last — assizes, held for the county of —, be-

cause you the said *A. B.* did not proceed to trial at the said assizes, pursuant to notice by you given, in a certain cause then depending in our same court, between you the said *A. B.* plaintiff, and the said *C. D.* defendant, in a plea of trespass on the case,“ or as the plea is :) And this you are in no wise to omit, under the penalty of 100*l.* which we shall cause to be levied to our use, upon your goods and chattels, lands and tenements, if you neglect this our present command. Witness Sir *William Alexander* knight, &c. (125.)

George the Fourth, &c. (14.) To the sheriff of —, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and attach *A. B.* by his body, wheresoever he shall be found in your bailiwick, and him safely and securely keep, so that you may have him before the barons of our Exchequer at *Westminster*, on — next coming, to answer us of divers trespasses, contempts and offences, by him lately done and committed; and further to do and receive what our said court shall then and there think fit to order concerning him in this behalf; and have there this writ. Witness Sir *William Alexander* knight, &c. (125.)

G. H. Solicitor.

Bridges.

C.

Rose.

By order of court, at the instance of *C. D.* for non-payment of — *l.* costs.

(§ 14.)
Attachment,
for non-pay-
ment of costs,
in the Exche-
quer.

Prac. 991.

CHAP. XII.

WRITS of FIERI FACIAS, CAPIAS AD SATISFACIENDUM, and
ELEGIT; and PROCEEDINGS thereon.

(§ 1.)
Fieri facias, in
assumpsit, in
K. B.
Prac. 998, &c.

GEORGE the Fourth, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith. To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, (*by bill; or, by original*, “on —, wheresoever we shall then be in *England*,”) to be rendered to the said *A. B.* for his damages aforesaid; and have there then (*or, by original*, “have there”) this writ. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of — in the — year of our reign.

(§ 2.)
The like, in
C. P.
Prac. 998, &c.

George the Fourth, &c. (*as above*.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made * — *l.* which *A. B.* lately in our court, before our justices at *Westminster*, recovered against him, for his damages which he had sustained, on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* at — (*the venue*), in your county; whereof the said *C. D.* is convicted: And have that money before our justices at *Westminster*, on —, to be rendered to the said *A. B.* for his damages aforesaid; and have there this writ. Witness *Sir William Draper Best knight*, at *Westminster*, the — day of — in the — year of our reign.

* In some of the more modern books of practice, as well as in the blank forms published by the law stationers, the sheriff, in the Common Pleas, is commanded to cause the debt or damages to be *levied*, and in the Exchequer to *levy* the same, or cause them to be *levied*, of the defendant's goods and chattels: *Imp. C. P.* 451, *Edm. Exch.* 165, 168. but there seems to be no ground for a distinction in this respect. See *Prac.* 2 V. pp. 993, 1042. The sheriff therefore is commanded, in the following forms, to cause the debt or damages to be *made* of the goods and chattels of the defendant, in the Common Pleas and Exchequer, as well as in the King's Bench: which is also warranted by the earlier precedents. See *Thrs. Brev. Off. Itrev. & Lil. Eat. tit. Fieri facias*.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, for his damages which he had sustained, on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: And have that money before the barons of our said Exchequer at *Westminster*, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there * this writ. Witness Sir *William Alexander* knight, at *Westminster*, the — day of — in the — year of our reign.

E. F. Solicitor.

Bridges.

C.

Rose †.

(§ 3.)
The like, in the
Exchequer.
Prac. 998, &c.

* It is observable, on comparing the different writs in the Exchequer, that this part of them is not always uniform: In the writs of *venire facias ad respondendum*, *distringas*, and *quo minus*, and also in the *habeas corpus cum causa*, &c. the sheriff is commanded to have there this writ, which is also the form used in writs of execution; but in the *subpoena*, and process of contempt thereon, and also in the jury process, he is commanded to have there then this writ.

† By comparing the foregoing writs, it will be seen, that they differ in the following particulars: 1. That in the Exchequer, the writ is always a *non omittas*; but it is not so in the other courts, unless it is to be executed in a particular liberty: 2. That in the Exchequer, the plaintiff, when first named, is called "our debtor," which is not the case in the other courts: 3. With regard to the style of the court, in which the judgment was recovered; it is stated in the King's Bench, to be "in our court before us;" in the Common Pleas, "in our court before our justices at *Westminster*;" and in the Exchequer, "in our court before the barons of our Exchequer at *Westminster*:" 4. As to the subject matter of the recovery; in the King's Bench, the costs of the action are particularly mentioned, as well as the damages; but in the Common Pleas and Exchequer, the costs are never mentioned, being considered as parcel of the damages: 5. In referring to the judgment, after the words "whereof the said *C. D.* is convicted," there is no *prout patet per recordum* in the Common Pleas; but in the King's Bench, these words are added, "as appears to us of record;" and in the Exchequer, "as by inspecting the rolls of our said Exchequer, appears to us:" 6. As to the return of the writ; in the King's Bench, it is made returnable "before us at *Westminster*," on a day certain by bill, or, by original, on a general return-day, "wheresoever we shall then be in *England*;" in the Common Pleas, it is made returnable "before our justices at *Westminster*," on a general return-day, except in actions by bill, when it is made returnable on a day certain, as in the King's Bench; and, in the Exchequer, it is commonly made returnable "before the barons of our Exchequer at *Westminster*," on a general return-day, as in proceedings by original; though it may be returnable on a day certain, as on the — day of — instant, (or, next coming:;) 7. That in the King's Bench or Common Pleas, the sheriff is commanded to have the money in court, at the return of the writ, to be rendered to the plaintiff, for his debt or damages, (&c.); but in the Exchequer, he is required to have it, to be then and there paid to the plaintiff, or his attorney in this behalf: 9 Price, 56. 8. That in actions by bill, in the King's Bench or Common Pleas, the sheriff is commanded to have there then this writ; but by original, in K. B. or C. P. or in the Exchequer, he is commanded to have there this writ: the reason of this latter difference seems to be, that in actions by original, or in the Exchequer, the sheriff is not expected to return the writ into court till the third day, or next day but one after it is returnable, from

(§ 4.)
The like, by
and against
surviving part-
ners,
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you *, that of the goods and chattels of *G. H.* and *I. K.* in your bailiwick, you cause to be made —*l.* which *A. B. C. D.* and *E. F.* in the life-time of the said *E. F.* now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us (or, in *C. P.* “before our justices,” or, in the *Exchequer*, “before the barons of our *Exchequer*”) at *Westminster*, recovered against them the said *G. H.* and *I. K.* and one *L. M.* (the deceased partner,) in his life-time now deceased, and whom the said *G. H.* and *I. K.* have survived, for their damages, &c. (stating the promises to have been made by, and to all the partners, and that they were all of them convicted:) And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*; stating that the damages are to be rendered, or paid, to the said *G. H.* and *I. K.* &c.)

(§ 5.)
The like, for
an executor or
administrator,
on a judgment
by the testator
or intestate.
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which *A. B.* in his life-time lately in our court before us (or, in *C. P.* “before our justices,” or, in the *Exchequer*, “before the barons of our *Exchequer*”) at *Westminster*, recovered against him, for his damages, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*;) whereof, &c. (352, 3.): And whereupon it is considered in our said court before us, (or “before our said justices or barons,”) that *E. F.* executor of the last will and testament of the said *A. B.* deceased, (or, “administrator of all and singular the goods, chattels and credits, which were of the said *A. B.* deceased, at the time of his death, who died intestate,”) have execution against the said *C. D.* for the damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* (adding, in *K. B.* “as also appears to us of record;” or, in the *Exchequer*, “as by inspecting the rolls of our said *Exchequer*, also appears to us:”) And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*;) to be rendered to the said *E. F.* executor (or, “administrator”) as aforesaid, for the damages aforesaid, (or, in the *Exchequer*, “to be then and there paid,” &c.) and have there then (or, by original in *K. B.* or *C. P.* or in the *Exchequer*, “have there”) this writ. Witness *Charles Lord Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight, or, in the

whence this day is called the day of *retorna brevium*: 9. In the *King's Bench* and *Common Pleas*, the writ is *tested* in the name of the chief-justice; and in the *Exchequer*, in the name of the chief-baron: and lastly, that in the *King's Bench*, the writ, though sealed, is not signed; but in the *Common Pleas*, it is signed by the Prothonotaries, and in the *Exchequer*, by the Clerk of the Pleas.

The above differences will also be found to apply, in a great measure, to the writs of *copias ad satisfaciendum*, and other writs of execution, in the present chapter.

* In the *Exchequer*, it should be recollected, that the writ always contains a clause of *non omittas*; but for the sake of brevity, and to avoid unnecessary repetition, that clause is not inserted in the following forms; nor, for the same reason, is the plaintiff called therein “our debtor.”

Exchequer, Sir William Alexander knight,) at *Westminster*, the — day of — in the — year of our reign. CHAP. XLI.

George the Fourth, &c. (352.) To the sheriff of —, greetings. We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* executor of the last will and testament of *E. F.* deceased, (or, “ administrator of all and singular the goods, chattels and credits, which were of *E. F.* deceased, at the time of his death, who died intestate,”) lately in our court before us (or, in *C. P.* “ before our justices,” or in the *Exchequer*, “ before the barons of our *Exchequer*”) at *Westminster*, recovered against him, for his damages, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*;) whereof, &c. (352, 3.): And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*.)

(§ 6.)

The like, on a judgment by an executor or administrator.

Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels which were of *C. D.* deceased, at the time of his death, in the hands of *E. F.* executor, &c. (or, administrator, &c. as in last,) to be administered, in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us (or, in *C. P.* “ before our justices”, or, in the *Exchequer*, “ before the barons of our *Exchequer*”) at *Westminster*, recovered against the said *C. D.* for his damages, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*;) whereof, &c. (352, 3.): And whereupon it is considered in our said court before us, (or, in *C. P.* “ before our said justices,” or, in the *Exchequer*, “ before the barons of our said *Exchequer*,”) at *Westminster* aforesaid, that the said *A. B.* have his execution against the said *E. F.* as executor (or, administrator) as aforesaid, of the damages aforesaid, of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* as executor (or, administrator) as aforesaid to be administered, according to the form and effect of the said recovery, (adding, in *K. B.* “ as also appears to us of record:” or, in the *Exchequer*, “ as by inspecting the rolls of our said *Exchequer*, also appears to us:”) And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*.)

(§ 7.)

The like, against an executor or administrator, on a judgment against the testator or intestate.

Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels in your bailiwick, which were of *E. F.* deceased, at the time of his death, in the hands of *C. D.* executor, &c. (or, administrator, &c. as above,) to be administered, you cause to be made — *l.* which *A. B.* lately in our court before us (or, in *C. P.* “ before our justices,” or, in the *Exchequer*, “ before the barons of our *Exchequer*”) at *Westminster*, recovered against the said *C. D.* as executor (or, administrator) as aforesaid, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings made by the said *E. F.* in his life-time to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended, (or, in the *Common Pleas* or *Exchequer*, “ for his damages,” &c. omitting the costs,) whereof, &c. (352, 3.) if the said *C. D.* hath so

(§ 8.)

The like, on a judgment against an executor or administrator, *de bonis testatoris*, &c.

Prac. 993, 998, &c.

CHAP. XLI. much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then that you cause to be made — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, (or, in *C. P.* for the costs and charges by him about his suit in this behalf expended,) of the proper goods and chattels of the said *C. D.* in your bailiwick: And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 9.)
Fieri facias in
debt, in *K. B.*
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our same court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, (*by bill; or by original, "on —, wheresoever we shall then be in England,"*) to be rendered to the said *A. B.* for his debt and damages aforesaid; and have there then (*or, by original, "have there"*) this writ. Witness *Charles Lord Tenterden*, &c. (352.)

(§ 10.)
The like, in
C. P.
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of — *l.* which *A. B.* lately in our court before our justices at *Westminster*, recovered against him, and also — *l.* which in our same court were awarded to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the said debt; whereof the said *C. D.* is convicted: And have that money before our justices at *Westminster*, on —, to be rendered to the said *A. B.* for his debt and damages aforesaid; and have there this writ. Witness *Sir William Draper Best* knight, &c. (352.)

(§ 11.)
The like, in the
Exchequer.
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made, as well a certain debt of — *l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, as also — *l.* which were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the said debt; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer appears to us: And have that money before the barons of our said Exchequer, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there this writ. Witness *Sir William Alexander* knight, &c. (353.)

(§ 12.)
The like, in
debt *qui tam*, in
K. B. or *C. P.*
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of — *l.* which *A. B.* who sued as

well for us as for himself in that behalf, lately in our court before us (or, in *C. P.* "before our justices") at *Westminster*, recovered against the said *C. D.* that is to say, one moiety thereof to our own proper use, and the other moiety thereof to the said *A. B.* who sued as aforesaid, to his own proper use; (and, if the judgment was for costs, add, "and also —*l.* which in our said court before us," or, in *C. P.* "in our same court,") were adjudged to the said *A. B.* who sued as aforesaid, and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him about his suit in that behalf expended;") whereof, &c. (352, 3.) And have that money, &c. (as before, p. 352. in *K. B.* or *C. P.*) one moiety thereof to be rendered to us, and the other moiety thereof to the said *A. B.* who sued as aforesaid, (or, if there are costs, "one moiety of the said debt of —*l.* to be rendered to us, and the residue thereof, as well as the said sum of —*l.* for the costs and charges aforesaid, to the said *A. B.* who sued as aforesaid;") and have there then (or, by original in *K. B.* or *C. P.* "have there") this writ. Witness, &c. (148.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (or in *C. P.* "before our justices," or, in the *Exchequer*, "before the barons of our *Exchequer*") at *Westminster*, recovered against him, and also —*l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, and of a certain metal watch, which the said *A. B.* also in our said court before us (or "before our said justices, or barons") at *Westminster* aforesaid, recovered against him, as for his costs and charges by him about his suit in that behalf expended; whereof, &c. (352, 3.) And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*.) We also command you, that you distrain the said *C. D.* by all his lands and chattels in your bailiwick, so that neither he nor any one by him do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues of the same, so that he render the said watch to the said *A. B.*; whereof, &c. (352, 3.) And have there then (or, by original in *K. B.* or *C. P.* or in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *G. H.* and *I. K.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B. C. D.* and *E. F.* in the life-time of the said *E. F.* now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us (or, in *C. P.* "before our justices," or, in the *Exchequer*, before the barons of our *Exchequer*) at *Westminster*, recovered against the said *G. H.* and *I. K.* and *L. M.* in his life-time now deceased, and whom the said *G. H.* and *I. K.* have survived, and also —*l.* which in our same court before us (or, "before our said justices, or, barons") at *Westminster*

(§ 13.)
The like, in debt, and *distringas* in detinue, on stat. 9 Ann. c. 14.
Prac. 998, &c.

(§ 14.)
The like, in debt, by and against surviving partners.
Prac. 998, &c.

CHAP. XLI.

aforesaid, were adjudged to the said *A. B. C. D.* and *E. F.* for their damages, &c. (352, 3.) whereof, &c. (*id.*): And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 15.)
The like, at the suit of executors, on a judgment by the testator, in debt on bond, after a *scire facias* by the executors, suggesting a further breach, on stat. 8 & 9 W. III. c. 11. § 8.
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* for the damages assessed upon our writ of *scire facias*, according to the form of the statute in such case made and provided, by reason of the breach of the condition of a certain writing obligatory, made and given by the said *C. D.* to *A. B.* deceased, in the penal sum of —*l.*; and whereupon it was, after plea pleaded in a certain suit upon our said writ of *scire facias*, considered by our court before us, (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, that *E. F.* and *G. H.* executors of the last will and testament of the said *A. B.* deceased, should have their execution against the said *C. D.* for the damages aforesaid, upon a certain judgment before then recovered by the said *A. B.* deceased, against the said *C. D.* upon the said writing obligatory, according to the form of the statute aforesaid; and also —*l.* which in our said court before us, (*or, "before our said justices, or barons,"*) were awarded to the said *E. F.* and *G. H.* as executors as aforesaid, for their costs and charges by them laid out in and about the prosecution of our said writ of *scire facias*, for having execution upon the said judgment, for the damages aforesaid; whereof, &c. (352, 3.): And have the said monies, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said *E. F.* and *G. H.* as executors as aforesaid, for the damages, costs and charges aforesaid, (*or, in the Exchequer, "to be then and there paid," &c.*) and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 16.)
The like, against an executor or administrator, *de bonis testatoris, &c.*

Prac. 993, 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels, &c. (*as in § 7.*) you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, recovered against the said *C. D.* as executor (*or, administrator*) as aforesaid, and also —*l.* which in our said court before us (*or, "before our said justices, or barons"*) at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages, &c. (*as in a common fieri facias, in debt,*) if the said *C. D.* hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then that you cause the damages aforesaid to be made of the proper goods and chattels, in your bailiwick, of the said *C. D.* And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 17.)
Fieri facias in covenant.

Prac. 996, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which *A. B.* lately in our court before us (*or, in C. P. "before our justices," or, in the Exchequer, before the barons of our Exchequer"*) at *Westminster*, recovered against the said

C. D. for his damages which he had sustained, as well on occasion of the breach of a certain covenant, made between the said *A. B.* and the said *C. D.* as for his costs and charges by him about his suit in that behalf expended ; (or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.) And have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*.)

CHAP. XLI.

For his damages which he had sustained, as well on occasion of a certain grievance, then lately committed by the said *C. D.* to the said *A. B.* as for his costs, &c. (§ 17.; or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.)

(§ 18.)
In case.
Prac. 998, &c.

For his damages which he had sustained, as well on occasion of the converting and disposing of certain goods and chattels of the said *A. B.* by the said *C. D.* as for his costs, &c. (§ 17.; or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.)

(§ 19.)
In trover.
Prac. 998, &c.

For his damages which he had sustained, as well on occasion of the speaking and publishing of certain false, scandalous, malicious and defamatory words, then lately spoken and published by the said *C. D.* to of and concerning the said *A. B.* as for his costs, &c. (§ 17. or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.)

(§ 20.)
In an action for words.
Prac. 998, &c.

For his damages which he had sustained, as well on occasion of a certain trespass, then lately committed by the said *C. D.* as for his costs, &c. (§ 17.; or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.)

(§ 21.)
In trespass.
Prac. 998, &c.

For his damages which he had sustained, as well on occasion of a certain trespass and assault, then lately committed by the said *C. D.* on the said *A. B.* as for his costs, &c. (§ 17.; or, in the *Common Pleas* or *Exchequer*, “for his damages,” &c. omitting the costs :) whereof, &c. (352, 3.)

(§ 22.)
In trespass and assault.
Prac. 998, &c.

George the Fourth, &c. (352.) To the chancellor of our county palatine of *Lancaster*, or to his deputy there, (or, in *Chester*, “To our chamberlain of our county palatine of *Chester*, or his deputy there,” or, in *Durham*, “To the Reverend Father in God —, by divine permission, Lord Bishop of *Durham*, or to his chancellor there,”) greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, (or, if in *Durham*, “that by our writ under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,”) that of the goods and chattels of *C. D.* in his bailiwick, he cause to be made, &c. (352, 3.) whereof, &c. (*id.*) And have you that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*,) to be rendered to the said *A. B.* for his damages (or, “debt and damages”) aforesaid ; (or, in the *Exchequer*, “to be then and there paid,” &c.) and have there then (or, by original in *K. B.* or *C. P.* or in the *Exchequer*, “have there”) this writ. Witness, &c. (354, 5.)

(§ 23.)
To a county palatine.
Prac. 998, &c.

(§ 24.)
After *scire facias*, by default.
Prac. 998, &c.

(*As in a common fieri facias, to the words, "whereof the said C. D. is convicted:" adding, in K. B. "as appears to us of record;" or, in the Exchequer, "as by inspecting the rolls of our said Exchequer, appears to us:"*) And whereupon it is considered, in our same court before us, (*or, in C. P. "before our said justices," or, in the Exchequer, "before the barons of our said Exchequer,"*) that the said *A. B.* have his execution against the said *C. D.* of the damages (*or, "debt and damages"*) aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* (*adding, in K. B. "as also appears to us of record;" or, in the Exchequer, "as by inspecting the rolls of our said Exchequer, also appears to us:"*) And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 25.)
The like, after
plea or demurrer.
Prac. 998, &c.

— whereof the said *C. D.* is convicted, &c. (*as above,*) and also — *l.* which in our said court before us (*or, in C. P. "before our said justices," or, in the Exchequer, "before the barons of our said Exchequer"*) at *Westminster* aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said judgment, for the damages (*or, "debt and damages"*) aforesaid: And whereupon it was, after plea pleaded (*or, "demurrer joined"*) therein, considered in our same court before us, (*or, "before our said justices, or, barons,"*) that the said *A. B.* should have his execution against the said *C. D.* of the damages (*or, "debt and damages"*) aforesaid, according to the force, form and effect of the said recovery, &c.: and have the said monies, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 26.)
The like, against
the lands, &c. of
a defendant dis-
charged under
an insolvent
act, with a *ca.*
sa. for the costs
in *scire facias*.
Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the lands, goods and chattels of *C. D.* in your bailiwick, you cause to be levied and made a certain debt of — *l.* which *A. B.* lately in our court before us (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, recovered against him, and also — *l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (*or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;*) whereof, &c. (352, 3.) And whereupon it is considered, in our same court before us, (*or, "before our said justices, or barons,"*) that the said *A. B.* have his execution against the said *C. D.* for the debt and damages aforesaid, to be levied, not on the person, but on the lands, goods and chattels of the said *C. D.* (*adding, in K. B. "as also appears to us of record;" or, in the Exchequer, "as by inspecting the rolls of our said Exchequer, also appears to us:"*) And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said *A. B.* for his debt and damages aforesaid: (*or, in the Exchequer, "to be then and there paid," &c. as in p. 353.*) We also command you, that you take the said *C. D.* if he be found in your baili-

wick, and him safely keep, so that you may have his body before us (or, **CHAP. XLI.** "before our said justices, or barons") at *Westminster*, on the return day aforesaid, to satisfy the said *A. B.* — *l.* which in our said court before us, (or, in the *Common Pleas* or *Exchequer*, "in our same court,") were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said first-mentioned judgment, for the debt and damages aforesaid; and have there then (or, by original in *K. B.* or *C. P.* or in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the lord the king of *feri facias*, to be directed to the sheriff of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or, "debt and damages") aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the said county, thereupon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels in his bailiwick, whereof he can cause to be made the damages (or, "debt and damages") aforesaid, or any part thereof: And hereupon the said *A. B.* prays another writ of the said lord the king of *feri facias*, to be directed to the said sheriff of —, commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place.

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the lord the king of *feri facias*, to be directed to the sheriff of —, commanding him, &c. (as in the last.) At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, thereupon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels, &c. (as in last.) And hereupon the said *A. B.* prays the writ of the said lord the king of *capias ad satisfaciendum*, to be directed to the said sheriff of —, commanding him, that he take the said *C. D.* if he be found in his bailiwick, and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after —, to satisfy the said *A. B.* the damages (or, "debt and damages") aforesaid; and it is granted to him, &c.; the same day is given to the said *C. D.* at the same place.

(§ 27.)

Entry of *feri facias* on the roll, with return of *nulla bona*, and award of similar writ, in *K. B.*
Prac. 1022.

(§ 28.)

Entry of *feri facias*, and return of *nulla bona*, and award of *capias ad satisfaciendum*, in *K. B.*
Prac. 1022.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick,

(§ 29.)

Fieri facias on a *non pro*, for

not declaring
on a bill of
Middlesex, or
latitat, &c. in
K. B.

Prac. 998, &c.

you cause to be made — *l.* which lately in our court before us at *Westminster*, were adjudged to *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence of and upon a certain precept called a bill of *Middlesex*, (or, “our certain writ of —,”) issued out of our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not declared thereupon, in our said court before us, by his bill or declaration in any personal action or ejectment, against the said *C. D.* before the end of — term, in the — year of our reign, being the next term after the appearance of the said *C. D.* at the suit of the said *A. B.*; whereof the said *A. B.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to be rendered to the said *C. D.* for his costs and charges aforesaid; and have there then this writ. Witness, &c. (*as in p.* 352. § 1.)

(§ 30.)
The like, by
original, in
K. B.

Prac. 998, &c.

For his costs and charges by him laid out in and about his defence in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or, *as the plea is*,) lately depending in our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not prosecuted his writ against the said *C. D.* in the plea aforesaid; whereof, &c. (352.) And have that money, &c. (*as before*, *p.* 352; *making the writ returnable on a general return day, wheresoever*, &c.)

(§ 31.)
The like, in
C. P.

Prac. 998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which lately in our court before our justices at *Westminster*, were awarded to *A. B.* by the discretion of the said justices, according to the form of the statute in such case made and provided, for his costs and charges, &c. (*as in the last, omitting the words* “before us;”) whereof, &c. (352.) And have that money before our justices at *Westminster*, on —, to be rendered to the said *C. D.* for his costs and charges aforesaid; and have there this writ. Witness, &c. (*p.* 352. § 2.)

(§ 32.)
The like, for
not replying, in
K. B. or C. P.

Prac. 998, &c.

For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, (*or, as the action is*,) lately depending in our said court before us (*or, in C. P.* “before our justices,” *or, in the Exchequer*, “before the barons of our Exchequer”) at *Westminster*, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not replied to certain pleas, then lately pleaded by the said *C. D.* in the said action, or further prosecuted the same; whereof, &c. (352.)

(§ 33.)
The like, for
not surrejoinder-
ing.

Prac. 998, &c.

For his costs and charges, &c. (*as in last*,) for that the said *A. B.* had not surrejoined to certain rejoinders, then lately made by the said *C. D.* in the said action, or further prosecuted the same; whereof, &c. (352.)

(§ 34.)
The like, for
not entering
the issue.

Prac. 998, &c.

For his costs and charges, &c. (§ 32.) for that the said *A. B.* had not entered a certain issue, (*or, certain issues*,) then lately joined between the said *A. B.* and the said *C. D.* in the said action, or further prosecuted the same; whereof, &c. (352.)

For his costs and charges, &c. (§ 32.) for that the said *A. B.* had neglected to bring a certain issue, before then joined in the said action, on to be tried, according to the course and practice of the said court; whereof, &c. (352.)

For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, (*or, as the action is,*) lately brought in our said court before us (*or, in C. P. "before our justices"*) at *Westminster*, by the said *A. B.* against the said *C. D.* for that the said *A. B.* did not prosecute the said action; whereof, &c. (352.)

For his costs and charges, &c. (§ 32.) by the discretion of our said court; for that the said *A. B.* did not prosecute his bill against the said *C. D.* in our said court lately brought, in a plea of trespass on the case, (*or, as the plea is;*) whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: And have that money, &c. (353.)

For his costs and charges, by him laid out in and about his defence in a certain action of trespass on the case upon promises, (*or, as the action is,*) lately prosecuted in our said court before us (*or, in C. P. "before our justices"*) at *Westminster*, by the said *A. B.* against the said *C. D.*; whereof, &c. (352.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made the sum of —*l.* parcel of the sum of —*l.* which lately in our court before us (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, were adjudged to *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, lately prosecuted in our said court before us, (*omitting "before us," in the Common Pleas, or Exchequer,*) by the said *A. B.* against the said *C. D.* and in which said action he the said *C. D.* was arrested and held to special bail at the suit of the said *A. B.* to the amount of the sum of —*l.* after deducting the sum of —*l.* recovered by the said *A. B.* in the said action, from the amount of the said sum of —*l.*; for that the said *A. B.* had not any reasonable or probable cause for causing the said *C. D.* to be arrested, and held to special bail, in such amount as aforesaid; whereof, &c. (352, 3.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you do not omit by reason of any liberty in your county, but that you enter the same, and of the goods and chattels, &c. (*as in other cases.*)

(§ 35.)

The like, on a judgment as in case of a nonsuit.

Prac. 998, &c.

(§ 36.)

The like, on a nonsuit, in K. B. or C. P.

Prac. 998, &c.

(§ 37.)

The like, in the Exchequer.

Prac. 998, &c.

(§ 38.)

The like, on a verdict for defendant, in K. B. or C. P.

Prac. 998, &c.

(§ 39.)

The like, for the difference between the taxed costs and sum recovered, on stat. 43 Geo. III. c. 46. § 3. where the plaintiff recovers less than the sum for which the defendant was held to bail.

Prac. 982, 3. 998, &c.

(§ 40.)

Non omittas fieri facias.

Prac. 1022.

(§ 41.)

Condition of bond, to indemnify sheriff, for

Whereas the above-named sheriff, by virtue of his majesty's writ of *feri facias* to him directed, against the goods and chattels of *C. D.* issued out of his majesty's court of King's Bench (*or Common Pleas, or*

selling on a
feri facias.
Prac. 1017. (c.)

Exchequer) at *Westminster*, and there returnable on —, at the suit of the above bounden *A. B.* hath seized and taken divers goods and chattels, as the proper goods and chattels of the said *C. D.* in execution: And whereas, since the seizing and taking of the said goods and chattels in execution as aforesaid, the same and every part thereof have been claimed by *E. F.* who hath given notice to the said sheriff, not to proceed to a sale of the said goods and chattels, or to pay over the money arising from the sale thereof to the said *A. B.*: And whereas the said *A. B.* hath applied to the said sheriff, and requested him to sell the said goods and chattels, so seized as aforesaid, under and by virtue of the said writ of *feri facias*, notwithstanding such claim and notice, and to pay to him the said *A. B.* the money arising from the sale thereof, in satisfaction and discharge of the debt and damages, directed to be levied by the said writ of *feri facias*; and that he the said *A. B.* would indemnify the said sheriff for so doing: whereupon the said sheriff, in obedience to the said writ, and at the special instance and request of the said *A. B.* hath consented to sell the said goods and chattels, so seized and taken in execution as aforesaid, and to pay over to him the money arising from the sale thereof, in satisfaction and discharge of the debt and damages above-mentioned, upon being indemnified for so doing. Now the condition of the above written obligation is such, that if the above bounden *A. B.* his heirs, executors or administrators, do and shall from time to time, and at all times hereafter, well and sufficiently save harmless and keep indemnified the said sheriff, his under-sheriff, deputy and officers, and each and every of them, of, from and against all losses, costs, charges, damages and expenses, which he or they shall or may sustain, suffer, bear, pay, expend, or be put unto, for or by reason or means of seizing or selling the said goods and chattels, so seized and taken in execution as aforesaid, or paying unto the said *A. B.* the money arising from the sale thereof, in satisfaction and discharge of the debt and damages, so directed to be levied by the said writ of *feri facias*; and also of, from, and against all action and actions, suit and suits, either in law or equity, which now are, or shall or may at any time or times hereafter be brought, commenced or prosecuted, by the said *E. F.* or by any person or persons whomsoever, against the said sheriff, his under-sheriff, deputy and officers, or any or either of them, for or on account, or by reason or means of the seizing or selling the said goods and chattels, under the said writ of *feri facias*, or paying unto the said *A. B.* the money arising from the sale thereof as aforesaid, or for or by reason or means of any other act, matter, cause or thing whatsoever, relating thereto, or to the execution of the said writ of *feri facias*, then the above written obligation to be void, otherwise to stand and remain in full force, vigour and effect.

Sealed, &c. (90.)

(§ 42.)
Return of *feri*
facti.

Prac. 1018.

By virtue of this writ to me directed, I have caused to be made of the goods and chattels of the within-named *C. D.* the damages (or, "debt and damages") within-mentioned; which I have ready before the lord the king, (or, *n C. P.* "before the justices of the lord the king;" or, in the

Exchequer, "before the barons of his majesty's Exchequer,") at the day and place within contained, to be rendered to the said *A. B.* for his damages (or, "debt and damages") aforesaid, as within I am commanded. CHAP. XLI.

The answer of —, sheriff.

By virtue, &c. (§ 42.) I made my mandate to the bailiff of *E. F.* Esquire, of his liberty of —, who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath returned to me, that by virtue of my said mandate, to him thereupon directed, he hath caused to be made of the goods and chattels of the within-named *C. D.* the damages (or, "debt and damages") within-mentioned, and that he hath that money ready, before the lord the king, (or, in *C. P.* "before the justices of the lord the king;" or, in the *Exchequer*, before the barons of his majesty's Exchequer,") at the day and place within contained, as by my said mandate he was commanded.

The answer, &c. (*as above.*)

By virtue, &c. (§ 42.) I have caused to be made of the goods and chattels of the within-named *C. D.* the sum of —*l.* which money I have ready before the lord the king, (or, in *C. P.* "before the justices of the lord the king;" or, in the *Exchequer*, "before the barons of his majesty's Exchequer,") at the day and place within contained, to render to the said *A. B.* in part of his damages (or, "debt and damages") within-mentioned: And I further certify to the said lord the king, that the said *C. D.* has not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (or, "debt and damages") aforesaid, according to the exigency of this writ.

The answer, &c. (*as above.*)

By virtue, &c. (§ 42.) I have caused to be made of the goods and chattels of the within-named *C. D.* to the value of —*l.* And I further certify, that I have paid to —, the landlord of the premises on which the said goods and chattels were taken, the sum of —*l.* for — rent due to him for the said premises, at — last; and that I have retained in my hands the sum of —*l.* for poundage upon the said sum of —*l.* making together with the said sum of —*l.* the sum of —*l.*; and the remaining sum of —*l.* I have ready, as within I am commanded: And the said *C. D.* hath not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (or, "debt and damages") within-mentioned, or any part thereof.

The answer, &c. (*as above.*)

I — Esquire, sheriff of the county of —, humbly certify and return, that by virtue of his majesty's writ, which is hereto annexed, I have caused to be levied of the goods and chattels of *C. D.* in the said writ named, in my bailiwick, the sum of —*l.*; —*l.* part whereof I have paid to the landlord of the premises whereon the goods and chattels were seized, for rent (not exceeding one year,) due to the said landlord, in respect of the said premises; —*l.* further part thereof I have paid for

(§ 43.)

The like, upon a *mandavi ballivum*.

Prac. 1018.
1025.

(§ 44.)

Fieri feci for part, and *nulla bona* as to the residue.

Prac. 1018.

(§ 45.)

The like, and that the sheriff has paid part of the sum levied, to the landlord, for rent.

Prac. 1018.

(§ 46.)

The like, for rent and taxes; to be annexed to the writ.

Prac. 1018.

CHAP. XLI. taxes, due from the said *C. D.* to his majesty ; — *l.* further part thereof, I have retained for poundage, due to me on the levy ; and — *l.* residue thereof, I have paid to *A. B.* in the said writ also named, in part satisfaction of the damages in the said writ mentioned : And I further certify and return, that the said *C. D.* hath not any other or more goods or chattels in my said bailiwick, whereof I can cause to be levied the residue of the said damages, or any part thereof. By the same sheriff.

Indorsement. The execution of this writ appears in the schedule hereunto annexed. The answer, &c. (365.)

(§ 47.)
The like, upon
a *mandavi bal-*
livo, under
special circum-
stances.

Prac. 1018.
1025.

By virtue, &c. (§ 42.) I have sent my mandate to the bailiff of the liberty of — in my county, who hath the execution and return of all writs and process within the same liberty, and without whom no execution of this writ by me could be made within the same liberty ; which said bailiff hath answered me, that by virtue of the said mandate to him directed, he took in execution divers goods and chattels of the within-named *C. D.* which he kept possession of for the space of — days, and at the expiration of that time sold by public auction, by the direction of *E. F.* the attorney of and for the within-named *A. B.* ; and that the said *E. F.* as such attorney of and for the said *A. B.* was the highest bidder for, and declared the buyer at such sale, of divers of the said goods and chattels, to the amount of — *l.* which sum still remains unpaid ; and that the said bailiff caused to be made of the said goods and chattels so taken in execution, over and besides the said sum of — *l.* the sum of — *l.* out of which last-mentioned sum of money he paid to *G. H.* the landlord of the premises whereon the said goods and chattels were taken, the sum of — *l.* for rent due to him at — last ; and that he also paid the sum of — *l.* for king's taxes, due for and in respect of the said premises, at the time of taking the said goods and chattels ; and that he hath retained the sum of — *l.* with the consent of the said *E. F.* for the necessary charges and expenses of, and attending the keeping possession of and selling the said goods and chattels by auction as aforesaid, and also the sum of — *l.* for poundage ; and the remainder of the said sum of — *l.* the said bailiff hath paid to me, and I have the same ready to be rendered to the said *A. B.* as within I am commanded : And the said bailiff hath further answered me, that the said *C. D.* hath not any other or more goods or chattels in his liberty, whereof he can cause to be made the residue of the damages (*or*, “ debt and damages”) within mentioned, or any part thereof : And I further certify and return, that the said *C. D.* hath not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (*or*, “ debt and damages”) aforesaid, or any part thereof. The answer, &c. (365.)

(§ 48.)
That the she-
riff has taken
goods, which
remain in his
hands, for want
of buyers.

Prac. 1018.

By virtue, &c. (§ 42.) I have taken goods and chattels of the within-named *C. D.* to the value of the damages (*or*, “ debt and damages”) within-mentioned ; which goods and chattels remain in my hands unsold, for want of buyers ; therefore I cannot have that money before the lord the king, (*or*, in *C. P.* “ before the justices of the lord the king ;” *or*,

in the *Exchequer*, "before the barons of his majesty's *Exchequer*,") at **CHAP. XLI.** the day and place within contained, as I am within commanded.

The answer, &c. (365.)

By virtue, &c. (§ 42.) I have taken goods and chattels of the within-named *C. D.* to the value of —*l.* and have exposed them to sale from day to day, and have thereof sold to the value of —*l.*; which money I have ready, before the lord the king, (*or, in C. P.* "before the justices of the lord the king;" *or, in the Exchequer*, "before the barons of his majesty's *Exchequer*") at the day and place within contained, to be rendered to the within-named *A. B.* as within I am commanded; and the residue of the goods and chattels aforesaid still remain in my hands unsold, for want of buyers.

The answer, &c. (365.)

The within-named *C. D.* has no goods or chattels in my bailiwick, whereof I can cause to be made the damages (*or, "debt and damages"*) within-mentioned, or any part thereof, according to the exigency of this writ.

The answer, &c. (365.)

The within-named *C. D.* has no goods or chattels, nor any lay fee, in my bailiwick, whereof I can cause to be made the damages (*or, "debt and damages"*) within-mentioned, or any part thereof, as within I am commanded; but I do hereby certify, that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (*or, "vicar of the vicarage"*) and parish church of — in my county; which said rectory (*or, "vicarage"*) and parish church are within the diocese of the reverend father in God —, by divine permission, lord bishop of —.

The answer, &c. (365.)

The within-named *C. D.* has no goods or chattels, which were of the within-named *E. F.* at the time of his death, in his hands to be administered, in my bailiwick, whereof I can cause to be made the damages (*or, "debt and damages"*) within-mentioned, or any part thereof; and he has not any of his own proper goods or chattels, in my bailiwick, whereof I can cause to be made the within-mentioned sum of —*l.* parcel, &c. (*or, in debt*, "the damages aforesaid,") or any part thereof, according to the exigency of this writ.

The answer, &c. (365.)

The within-named *C. D.* has no goods or chattels, &c. (*as before;*) but divers goods and chattels, which were of the said *E. F.* at the time of his death, to the value of the damages (*or, "debt and damages"*) within-mentioned, after the death of the said *E. F.* came to the hands of the said *C. D.* to be administered; which said goods and chattels the said *C. D.* hath, before the coming of this writ to me directed, eloiigned, wasted, and converted to his own use.

The answer, &c. (365.)

(§ 49.)

The like, where part of the goods have been sold, and the rest remain in his hands, &c.

Prac. 1018.

(§ 50.)

Return of *nulla bona*.

Prac. 1018.

(§ 51.)

The like, and that the defendant is a beneficed clerk, &c.

Prac. 1018.

(§ 52.)

Nulla bona testatoris, nec propria, in an action against an executor or administrator.

Prac. 1018.

(§ 53.)

The like, with a *devoutavil*.

Prac. 1018.

(§ 54.)

Fieri facias for the residue, in assumption.

Prac. 1019.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels of *C. D.* in your bailiwick, you should cause to be made —*l.* which *A. B.* then lately in our court before us (*or, in C. P.* "before our justices,"

CHAP. XLI. *or, in the Exchequer, "before the barons of our Exchequer") at Westminster, had recovered against C. D. for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said C. D. to the said A. B. as for his costs and charges by him about his suit in that behalf expended; (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, &c. (352, 3.) and that you should have that money before, &c. (id.) on, &c. (id.) to be rendered to the said A. B. for his damages aforesaid, (or, in the Exchequer, "to be then and there paid," &c.) And you at that day returned to us, (or, in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at Westminster aforesaid, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said C. D. in your bailiwick, —*l.* parcel of the damages aforesaid, which money you had ready at the day and place in the said writ contained, as by the said writ you were commanded; and that the said C. D. had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made —*l.* residue of the damages aforesaid: And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said A. B. for the residue of his damages aforesaid; (*or, in the Exchequer, "to be then and there paid," &c.*) and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)*

(§ 55.)
The like, in
debt.

Prac. 1019.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded you, that of the goods and chattels of C. D. in your bailiwick, you should cause to be made, &c. (*to the end of the fieri facias:*) And you at that day returned to us (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer"*) at Westminster, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said C. D. in your bailiwick, the sum of —*l.* parcel of the debt and damages aforesaid, which money you had ready, at the day and place in the said writ contained, as by the said writ you were commanded; and that the said C. D. had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the debt and damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made —*l.* residue of the debt and damages aforesaid: And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said A. B. for the residue of his debt and damages aforesaid; (*or, in the Exchequer, "to be then and there paid," &c.*) and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

*George the Fourth, &c. (352.) To the chancellor, &c. (359.) Whereas by our writ we lately commanded you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you should command the said sheriff, (or, if in Durham, "that by our writ, under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of Durham, you should cause the said sheriff to be commanded,") that of the goods and chattels, &c. (reciting the fieri facias.) And you at that day returned to us, (or in C. P. to our said justices, or, in the Exchequer, to the barons of our said Exchequer,) at Westminster aforesaid, that by virtue of the said writ to you directed, you had, by another writ under the seal of our said county palatine, (or, in Durham, under the seal of your said bishoprick) duly made, and directed to the sheriff of the said county palatine, (or, "of the said county of Durham,") commanded the said sheriff, as by our said first-mentioned writ you were commanded *; which said sheriff, in answer to the said writ to him directed, had returned to you, that by virtue of the said last-mentioned writ, he had caused to be made of the goods and chattels of the said C. D. in his bailiwick, --- l. parcel of the damages (or, "debt and damages") aforesaid; which money he had ready, so that you might have the same before us, (or, in the Common Pleas or Exchequer, before our said justices, or barons,) at the day and place in the said first-mentioned writ contained, to be rendered to the said C. D. as by that writ you were commanded; and that the said C. D. had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or, debt and damages) aforesaid, or any part thereof: Therefore we command you, that by our writ, under the seal of our said county palatine, to be duly made, and directed to the sheriff of our said county palatine, you command the said sheriff, (or, if in Durham, that "by our writ, under the seal of your bishoprick to be duly made, and directed to the sheriff of the said county of Durham, you cause the said sheriff to be commanded,") that of the goods and chattels of the said C. D. in his bailiwick, he cause to be made --- l. residue of the damages (or, debt and damages) aforesaid; and have you that money, &c. (as directed in last.)*

(§ 56.)
The like, to a
county palatine.
Prac. 1019.

George the Fourth, &c. (352.) To the sheriff of ---, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels &c. (here recite the fieri facias, to the end:) And you at that day returned to us, (or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,") at Westminster aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said C. D. to the value of the damages (or, "debt and damages") aforesaid; which said goods and chattels remained in your hands unsold, for want of buyers: Therefore we, being desirous that the said A. B. should be satisfied his damages (or, "debt and damages") afore-

(§ 57.)
Venditioni expo-
nus.
Prac. 1020.

CHAP. XLI. said, command you, that you expose to sale, and sell, or cause to be sold, the goods and chattels of the said C. D. by you in form aforesaid taken, and every part thereof, for the best price that can be gotten for the same, and at least for the damages (or, "debt and damages") aforesaid: And have the money arising from such sale, before us, (or, "before our said justices, or barons,") at *Westminster*, on, &c. (352, 3.) to be rendered to the said A. B. for his damages (or "debt and damages") aforesaid; (or, in the *Exchequer*, "to be then and there paid," &c. as in p. 353.); and have there then (or, by original in K. B. or C. P. or, in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

(§ 58.)
The like, to a
county palatine.
Prac. 1020.

George the Fourth, &c. (352.) To the chancellor, &c. (359.) Whereas by our writ we lately commanded you, that by our writ under the seal of our said county palatine, &c. (as before § 56. to the asterisk, and then as follows:) Which said sheriff, in answer to the said writ to him directed, had returned to you, that by virtue of the said last-mentioned writ, he had taken goods and chattels of the said C. D. to the value of the damages (or, debt and damages) aforesaid, which said goods and chattels remained in his hands unsold, for want of buyers; and that therefore you could not have that money before us, (or, in C. P. or *Exchequer*, before our said justices, or barons,) at the day and place in the said first-mentioned writ contained, as you were thereby commanded: Therefore, we being desirous that the said A. B. should be satisfied his damages (or, debt and damages) aforesaid, command you, that by our writ, under the seal of our said county palatine, &c. (as before § 56.) he expose to sale, and sell, or cause to be sold, the said goods and chattels of the said C. D. so by him taken as aforesaid, for the best price he can get for the same, and at least for the damages (or, debt and damages) aforesaid; and have you the money arising from such sale, before us, &c. (as in last.)

(§ 59.)
The like, for
part, and *fieri*
facias for the
residue.
Prac. 1020.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *fieri facias* :) And you at that day returned to us, (or, in C. P. "to our said justices," or, in the *Exchequer*, "to the barons of our said *Exchequer*,") at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said C. D. to the value of —l. parcel of the damages (or, "debt and damages") aforesaid: which said goods and chattels remained in your hands unsold, for want of buyers; and therefore that you could not have that money before us (or "before our said justices, or barons") at *Westminster*, at the day aforesaid; and that the said C. D. had no other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages (or, "debt and damages") aforesaid, or any part thereof, as by the said writ you were commanded: Therefore we command you, that you expose to sale the goods and chattels of the said C. D. by you in form aforesaid taken; and have the said —l. parcel, &c. before us, (or, in C. P. "before our said justices," or, in the *Exchequer*, "before the barons of our said *Exchequer*,") at *Westminster* aforesaid, on, &c. (352, 3.) to be rendered to the said A. B. for so much of the damages (or, "debt

and damages") aforesaid, (or, in the *Exchequer*, "to be then and there paid," &c.): We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or, "debt and damages") aforesaid; and have that money, together with the said — *l.* parcel, &c. before us, (or, "before our said justices, or barons,") at the day and place aforesaid, to be rendered to the said *A. B.* for his damages (or, "debt and damages") aforesaid; (or, in the *Exchequer*, "to be then and there paid," &c.); and have there then (or, by original, in *K. B.* or *C. P.* or in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

The sheriff was commanded, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made — *l.* and that he should have that money before the lord the king at *Westminster*, (or, in *C. P.* "before the justices here,") on —, to be rendered to the said *A. B.* for his damages, &c. (as in a *fiery facias* :) At which day, before the said lord the king at *Westminster*, comes (or, in *C. P.* "At which day comes here,") the said *A. B.* in his proper person; and the sheriff returns, that by virtue of the writ of the said lord the king to him thereupon directed, he hath taken goods and chattels of the said *C. D.* to the value of — *l.* which remain in the hands of the said sheriff unsold, for want of buyers; wherefore he cannot have the said money, before the said lord the king at *Westminster*, (or, in *C. P.* "before the justices here,") on the day aforesaid; and that the said *C. D.* hath no other goods or chattels, in the bailiwick of the said sheriff, whereof he can cause to be made any more of the money in the said writ contained: Therefore the sheriff is commanded, that he expose to sale the goods and chattels aforesaid, by him in form aforesaid taken; and that he have the money arising from such sale, before the said lord the king at *Westminster*, (or, in *C. P.* "before the justices here,") on, &c. (352.) to be rendered to the said *A. B.* &c. (as in the last.) The said sheriff is also commanded, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made — *l.* residue of the damages (or, "debt and damages") aforesaid; and that he have that money before the said lord the king at *Westminster*, (or, in *C. P.* "before the said justices here,") on the day aforesaid, to be rendered to the said *A. B.* for his damages aforesaid; the same day is given to the said *A. B.* there, (or, in *C. P.* "here,") &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you distrain *E. F.* late sheriff of your county, by all his lands and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you have another command from us in that behalf, and that you answer to us for the issues of the same; so that he expose to sale those goods and chattels, which were of *C. D.* in your bailiwick, to the value of — *l.* which lately in our court before us, were adjudged to *A. B.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and under-

(§ 60.)
Entry of *ventitioni exponas*, and return, and award of *fiery facias* for the residue, in *K. B.* or *C. P.* *Prac.* 1020, 21.

(§ 61.)
Distringas nuper vicecomitem, to expose to sale goods taken on a *fiery facias*, in *assumpsit*, in *K. B.* *Prac.* 1021.

CHAP. XLI. takings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, at the return day of the writ aforesaid; and have that money before us at *Westminster*, on — next after —, (*or, by original, "on —, wheresoever," &c.*) to be rendered to the said *A. B.* for his damages aforesaid; and have there then (*or, by original, "have there"*) this writ. Witness, &c. (352.)

(§ 62.)

The like, for part, in debt, and *feri facias* for the residue, in *K. B.*

Prac. 1021.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you distrain *E. F.* &c. (*as in the last writ, to the words, "issues of the same," and then as follows:*) so that he expose to sale those goods and chattels, which were of *C. D.* in your bailiwick, to the value of — *l.* parcel of a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, on — last past; and have that money before us at *Westminster*, on — next after —, (*or, by original, "on —, wheresoever," &c.*) to be rendered to the said *A. B.* for so much of his debt and damages aforesaid: We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the debt and damages aforesaid; and have that money before us at *Westminster*, (*omitting "at Westminster," by original,*) on the day last aforesaid, to be rendered to the said *A. B.* for the residue of his debt and damages aforesaid; and have there then (*or, by original, "have there"*) this writ. Witness, &c. (352.)

(§ 63.)

Testatum fieri facias, in assumpsit.

Prac. 1022.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.*, &c. (*as before, p. 352. to the words "damages aforesaid," or, in the Exchequer, as before, p. 353. to "his attorney in this behalf," and then as follows:*) And whereupon our sheriff of —, at a certain day now past, returned to us (*or in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer"*) at *Westminster*, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages aforesaid, or any part thereof; whereas it is testified in our same court, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages aforesaid, and every part

thereof; and have there then (*or, by original in K. B. or C. P. or, in the* **CHAP. XLI.** *Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.*, &c. (*as before, p. 352. to the words, "debt and damages aforesaid;" or, in the Exchequer, as before, p. 353. to "his attorney in this behalf," and then as follows:*) And whereupon our sheriff of —, at a certain day now past, returned to us (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer"*) at *Westminster*, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; whereas it is testified in our same court, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the debt and damages aforesaid, and every part thereof; and have there then (*or, by original in K. B. or C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 64.)
The like, in
debt.
Prac. 1022.

Afterwards, that is to say, on the — day of — in this same term, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the said lord the king of *feri facias*, to be directed to the sheriff of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (*or, "debt and damages"*) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, thereupon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels in his bailiwick, whereof he can cause to be made the damages (*or, "debt and damages"*) aforesaid, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king, before the king himself, that the said *C. D.* hath sufficient goods and chattels in the county of —, whereof the sheriff of that county may cause to be made the damages (*or, "debt and damages"*) aforesaid, and every part thereof: And thereupon the said *A. B.* prays the writ of the said lord the king of *testatum fieri facias*, to be directed to the sheriff of the said county of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (*or, "debt and damages"*) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said sheriff of — thereupon returns to the said lord the king, at *Westminster* aforesaid, that he hath caused to be made of the goods and chattels of the said *C. D.* in his bailiwick, the sum of — *l.* which money he has paid to the said *A. B.* in part satisfaction of the damages (*or*

(§ 65.)
Entry of *feri facias*, and *testatum*, on the roll, in K. B.
Prac. 1022.

CHAP. XLI. "debt and damages") aforesaid; and that the said *C. D.* hath not any other or more goods or chattels in his bailiwick, whereof he can cause to be made the residue of the damages (or, "debt and damages") aforesaid, or any part thereof.

(§ 66.)

*Testatum fieri
facias, into a
county palatine.*

Prac. 1022.

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he cause to be made — *l.* which *A. B.*, &c. (*as before, p. 352. to the words "damages aforesaid;" or, in the Exchequer, as before, p. 353. to "his attorney in this behalf," and then as follows:*) And whereupon our sheriff of —, at a certain day now past, returned, &c. (*as before, § 63. or 64.*); whereas it is testified in our same court, that the said *C. D.* hath sufficient goods and chattels in our said county palatine, whereof the sheriff of the same county may cause to be made the damages (or, "debt and damages") aforesaid, and every part thereof; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 67.)

*The like, from
a county palatine.*

Prac. 1022.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our chancellor of our county palatine of *Lancaster*, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of our said county palatine, he should command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made, &c. (*reciting the former writ:*) And our said chancellor of our said county palatine at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had, by another writ, under the seal of our said county palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said first-mentioned writ he was commanded; which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or, "debt and damages,") aforesaid, or any part thereof: Whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (*or, in C. P. "before our said justices," or, in the Exchequer, "before the barons of our said Exchequer,"*) at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages (or, "debt and damages") aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the damages (or, "debt and damages") aforesaid: And have that money, &c. (*as before, p. 352. in the King's Bench, or Common Pleas, or p. 353. in the Exchequer:*) and have then (*or, by original in K. B. or C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

George the Fourth, &c. (352.) To the reverend father in God —, by divine permission, lord bishop of *Durham*, or to his chancellor there, greeting: Whereas we lately commanded our chancellor of our county palatine in *Lancaster*, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of our said county palatine of *Lancaster*, he should command the same sheriff, that he should cause to be made, &c. (*reciting the former writ:*) And our said chancellor of our said county palatine of *Lancaster* at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) at *Westminster* aforesaid, that by virtue of our said writ to him directed, he had, by another writ, &c. (*as in the last*); which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (*or, "debt and damages"*) aforesaid, or any part thereof: Whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (*or, "before our said justices," or "barons,"*) at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in your bishoprick, whereof you may cause to be made the damages (*or, "debt and damages"*) aforesaid, and every part thereof: Therefore we command you, that by our writ, under the seal of your said bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (*or, "debt and damages"*) aforesaid: And have that money, &c. (*as before, p. 352. in the King's Bench, or Common Pleas, or p. 353. in the Exchequer;*) and have there then (*or, by original in K. B. or C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. 354, 5.)

(§ 68.)
The like, from
one county pa-
latine to an-
other.

Prac. 1022.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (*to the end of the fieri facias, and then as follows:*) And our said sheriff of — at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had caused to be made of the goods and chattels of the said *C. D.* — *l.* parcel of the damages (*or, "debt and damages"*) aforesaid, which money he had ready, at the day and place in the said writ contained, as by the said writ he was commanded; and that the said *C. D.* had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (*or, "debt and damages"*) aforesaid, or any part thereof: And because it is sufficiently testified in our said court before us, (*omitting "before us" in the Common Pleas or Exchequer,*) that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the residue or the damages (*or, "debt and damages"*) aforesaid; therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (*or, "debt*

(§ 69.)
*Testatum fieri
facias, for the
residue.*

Prac. 1022.

CHAP. XLI. and damages") aforesaid; and have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said *A. B.* for the residue of his damages, (*or, "debt and damages aforesaid;"* (*or, in the Exchequer, "to be then and there paid,"* &c.); and have there then, (*or, by original, in K. B. or in C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 70.)
The like, where
part had been
levied upon a
testatum to a
former sheriff.

Prac. 1022.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (*here recite the first fieri facias:*) And our said sheriff of — at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages (*or, "debt and damages"*) aforesaid, or any part thereof: And thereupon, on behalf of the said *A. B.* it was sufficiently testified in our said court before us, (*omitting "before us," in the Common Pleas or Exchequer,*) that the said *C. D.* had sufficient goods and chattels in your county, whereof the damages (*or, "debt and damages"*) aforesaid might be fully made: Whereupon by our certain other writ, we commanded the then sheriff of your said county, that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made the damages (*or, "debt and damages"*) aforesaid; and that he should have that money before us (*or, before our said justices, or barons*) at *Westminster*, on — last past, to be rendered to the said *A. B.* for his damages (*or, "debt and damages"*) aforesaid, (*or, in the Exchequer, "to be then and there paid,"* &c.): And the said then sheriff of your said county on that day returned to us, (*or, "to our said justices, or barons,"*) that by virtue of the said writ to him directed, he had caused to be made, &c. (*as in the last*): And now on behalf of the said *A. B.* it is further sufficiently testified in our said court before us, (*omitting "before us," in the Common Pleas or Exchequer,*) that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof the residue of the damages (*or, "debt and damages"*) aforesaid may be fully made: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (*or, "debt and damages"*) aforesaid: And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

(§ 71.)
The like, where
the *testatums*
issued into a
county palatine.
Prac. 1022.

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (*reciting the first fieri facias:*) And our said sheriff of —, at that day returned to us (*or, in C. P. "to our justices," or, in the Exchequer, "to the barons of our Exchequer"*) at *Westminster*, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (*or, "debt and damages"*) aforesaid, or any part thereof: And it was thereupon sufficiently testified in our said court before us, (*omitting "before us," in the Common Pleas or Exchequer,*) that the said *C. D.* had sufficient goods and chattels in our said county palatine, where-

of the damages (or, "debt and damages") aforesaid might be fully made: CHAP. XLI.
 Whereupon, by our writ of *testatum fieri facias*, we lately commanded our chancellor of our said county palatine, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the said county, he should command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made the damages (or, "debt and damages") aforesaid; and that the said sheriff should have that money before us (or, "before our said justices, or barons") at *Westminster*, on, &c. (352, 3.) to be rendered to the said *A. B.* for his damages (or, "debt and damages") aforesaid, (or, *in the Exchequer*, "to be then and there paid," &c.) And our said chancellor of our said county palatine at that day returned to us, (or, "to our said justices, or barons,") that by virtue of the said writ to him directed, he had by another writ, under the seal of our said county palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said writ of *testatum fieri facias* he was commanded; which said sheriff, in answer to the said last-mentioned writ, had returned to our said chancellor, that by virtue of the said writ to him directed, he had caused to be made, &c. (*as in the two former writs*): And now, on behalf of the said *A. B.* it is further sufficiently testified in our said court before us, (*omitting* "before us," *in the Common Pleas or Exchequer*), that the said *C. D.* hath sufficient goods and chattels in our said county palatine, whereof the residue of the damages (or, "debt and damages") aforesaid may be fully made: Therefore we command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made —*l.* residue of the damages (or, "debt and damages,") aforesaid; and that he have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer.*)

George the Fourth, &c. (352.) To the reverend father in God —, by divine permission, lord bishop of —, greeting: We command you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (or, *in C. P.* "before our justices," or, *in the Exchequer*, "before the barons of our Exchequer") at *Westminster*, recovered against him, and also —*l.* which in our said court before us at *Westminster*, aforesaid, (or, *in the Common Pleas or Exchequer*, "in our same court,") were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (or, *in the Common Pleas or Exchequer*, "for his damages," &c. *omitting the costs*;) whereof, &c. (352, 3.) And have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said *A. B.* for his debt and damages aforesaid, (or, *in the Exchequer*, "to

(§ 72.)
Fieri facias de bonis ecclesiasticis, in debt.
Proc. 1023.

CHAP. XLI. be then and there paid," &c.) And whereupon our sheriff of — returned to us, (or, "to our said justices, or barons,") at *Westminster* aforesaid, on, (&c.) in this same term, (or, in — term last past,) that the said *C. D.* had not any goods or chattels, or any lay fee, in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory (or, "vicar of the vicarage") and parish church of —, in the said sheriff's county, and within your diocese; and have there then (or, *by original in K. B. or C. P. or, in the Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

(§ 73.)
Entry thereof,
in *K. B.* or
C. P.
Prac. 1023, 4.

The sheriff was commanded, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made a certain debt of — *l.* which *A. B.* lately in the court of the lord the king before the king himself (or, in *C. P.* "before the justices") here, recovered against him, and also — *l.* which in the same court here were adjudged to the said *A. B.* for his damages, &c. (*as in the last*;) whereof, &c. (352.) and that the said sheriff should have that money before, &c. (*id.*) on this day, that is to say, on, &c. (*id.*) to be rendered to the said *A. B.* for his debt and damages aforesaid: And now here at this day, comes the said *A. B.* by — his attorney; and the sheriff now here returns, that the said *C. D.* hath no goods or chattels, nor any lay fee, in his bailiwick, whereof he can cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (or, "vicar of the vicarage") and parish church of — in the said sheriff's county, and within the diocese of —: Therefore it is commanded to the reverend father in God —, by divine permission, lord bishop of —, that of the ecclesiastical goods of the said *C. D.* in his diocese, he cause to be made the debt and damages aforesaid; and that he have that money here, on, &c. (352.) to be rendered to the said *A. B.* for his debt and damages aforesaid, &c.

(§ 74.)
*Levari facias, de
bonis ecclesiasti-
cis, for the ar-
rears of an an-
nuity, in C. P.*
Prac. 1023, 4.

George the Fourth, &c. (352.) To the reverend father in God —, by divine permission, lord bishop of —, greeting: We command you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you cause to be levied — *l.* which *A. B.* lately in our court before our justices at *Westminster*, recovered against him, for the arrears of a certain annual rent of — *l.* to be paid to the said *A. B.* every year, at the feasts of — and —, by even and equal portions; and also — *l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the annual rent aforesaid; whereof the said *C. D.* is convicted: And have the said monies, before our said justices at *Westminster* aforesaid, on —, to be rendered to the said *A. B.* for the arrears and damages aforesaid; and have there this writ, Witness Sir *William Draper Best* knight, &c. (352.)

(§ 75.)
*Sequestrari fu-
cias.*
Prac. 1023. (*h.*)

George the Fourth, &c. (352.) To the reverend father in God —, by divine permission, lord bishop of —, greeting: Whereas we lately commanded our sheriff of —, that he should cause to be made, &c. (*reciting the former writ*;) And whereupon our said sheriff of — on

that day returned to us (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer"*) at *Westminster*, that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory and parish church of —, in the county of —, and in your diocese, and had not any goods or chattels in his bailiwick, whereof he could cause to be made the said debt and damages, or any part thereof: Therefore we command you, that you enter into the said rectory and parish church of —, and take and sequester the same into your possession, and that you hold the same in your possession, until you shall have levied the said debt and damages, of the rents, tithes, oblations, obventions, fruits, issues and profits thereof, and other ecclesiastical goods of the said *C. D.* in your diocese, to be rendered to the said *A. B.* for his debt and damages aforesaid; (*or, in the Exchequer, "to be then and there paid," &c.*); whereof, &c. (352, 3.); and what you shall do therein, make appear to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) at *Westminster* aforesaid, on, &c. (352, 3.); and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

George the Fourth, &c. (352.) To the reverend father in God —, by divine permission, lord bishop of —, greeting: Whereas by our writ we lately commanded you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you should cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, recovered against him, and also —*l.* which in our said court before us at *Westminster* aforesaid, (*or, in the Common Pleas or Exchequer, "in our same court,"*) were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (*or, in the Common Pleas or Exchequer, "for his damages, &c. omitting the costs";*) whereof, &c. (352, 3.) and that you should have that money before, &c. (*id.*) on, &c. (*id.*) to be rendered to the said *A. B.* for his debt and damages aforesaid, (*or, in the Exchequer, "to be then and there paid," &c.*): And whereupon our sheriff of — had then lately returned to us, (*or, "to our said justices, or barons,"*) at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, nor any lay fee, in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory (*or, "vicar of the vicarage"*) and parish church of — in the said sheriff's county, and within your diocese: And you at that day returned to us, (*or, "to our said justices, or barons,"*) at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had caused to be made of the ecclesiastical goods of the said *C. D.* in your diocese, —*l.* parcel of the debt and damages aforesaid; and that the said *C. D.* had no ecclesiastical goods in your said diocese, whereof the residue of the debt and damages aforesaid, or any part thereof, could be made: Therefore we command you, that of the ec-

(§ 76.)
Testatum fieri
facias for the re-
sidue, de bonis
ecclesiasticis.
Prac. 1023, 4.

CHAP. XLI. clerical goods of the said *C. D.* in your diocese, you cause to be made — *l.* residue of the debt, and damages aforesaid; and have that money, &c. (as before, p. 352. in the *King's Bench* or *Common Pleas*, or p. 353. in the *Exchequer*,) to be rendered to the said *A. B.* for the residue of his debt and damages aforesaid; (or, in the *Exchequer*, "to be then and there paid," &c.); and have there then (or, by original in *K. B.* or *C. P.* or in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

(§ 77.)

Fieri facias to the archbishop, *de bonis ecclesiasticis*, during the vacancy of a bishop's see.

Prac. 1023, 4.

George the Fourth, &c. (352.) To the right reverend father in God —, by divine providence, archbishop of *Canterbury*, primate of all *England* and metropolitan, greeting: We command you, that of the ecclesiastical goods of *C. D.* clerk, in the diocese of —, which is within the province of *Canterbury*, as ordinary of that church, the episcopal see of — now being vacant, you cause to be made, &c. (as in the last.)

(§ 78.)

Sequestration.

Prac. 1023, 4.

— by divine permission, bishop of —. To our well beloved in *Christ*, *E. F.* of —, greeting: Whereas we have, with all due reverence, lately received his majesty's writ hereafter set forth, issuing out of his said majesty's court of *King's Bench*, (or *Common Pleas*, or *Exchequer*,) in the words following, to wit: *George* the Fourth, &c. (here copy the *feri facias de bonis ecclesiasticis* to the end, and then proceed as follows:) On which said writ there was and is a certain indorsement in writing, directing us to levy — *l.* and the yearly payment of — *l.* besides all expenses of sequestration and levy: We therefore, proceeding by virtue of and in obedience to the said writ, and inasmuch as in us lies duly executing the same, have sequestrated all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments, of and belonging to the rectory (or, "vicarage") and parish church of — in the county of —, and diocese of —, of which the said *C. D.* mentioned in the said writ, is the present rector, (or, "vicar,") and by these presents do sequester the same, and give and grant unto you the said *E. F.* full power and authority to sequester, collect, levy, gather and receive all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments, of and belonging to the rectory (or, "vicarage") and parish church of — aforesaid, and the same to sell and dispose of, and the money arising therefrom to apply to and for the due payment of the debt and costs in the said writ mentioned, subject to the said indorsement on the said writ, and also subject to a decree made and interposed by us, on the — day of — in the year of our Lord 18—, in a certain cause or business depending before us in judgment against the said *C. D.* that the said fruits, profits, and emoluments whatsoever of the said rectory (or, "vicarage") and parish church of — should be sequestrated, for and during the space of three years, to the end that the said parish church and cure of souls within the same, might be duly supplied with the performance of divine service, and that the parsonage house, together with the other buildings and fences on the premises, might be put and kept in substantial repair, and that all duties

and impositions incumbent on the said rectory, (or, "vicarage,") might be discharged, and subject also to the execution of the same decree; and also to publish, or cause to be published, this our present sequestration, in the parish church of — aforesaid, during the celebration of divine service therein, and in such fit terms, and in such fit places, as to you shall seem most proper and expedient; hereby requiring you to take care and provide, that during this our present sequestration, the cure of souls within the said parish of —, be well duly and canonically supplied with the performance of divine service, by some fit and able minister, to be approved of or nominated by us or our successors, if occasion shall require, and that the said parsonage house, together with the other buildings and fences on the premises, may be repaired, and kept and continued in substantial repair, and all tenths, subsidies, procurations, synodals, and all other impositions, both ordinary and extraordinary whatsoever, incumbent on and payable out of the said rectory, (or, "vicarage,") be well and duly satisfied, answered and paid, during the continuance of this our present sequestration: and lastly, that you make and render before us, or our vicar general and official principal, or other competent judge in this behalf, a true, just, and faithful account, of and upon your receipts and disbursements, in your office of sequestrator, when and at such time or times as you shall be thereunto lawfully required: In witness whereof, we have caused the seal of office of the worshipful —, doctor of laws, our vicar general and official principal, which we use in this behalf, to be affixed to these presents. Dated at —, the — day of — in the year of our Lord 18—, and in the — year of our translation.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded you, that of the goods and chattels which were of *E. F.* deceased, at the time of his death, in the hands of *C. D.* executor of the last will and testament of the said *E. F.* (or, "administrator of all and singular the goods, chattels and credits, which were of the said *E. F.* at the time of his death, who died intestate,") to be administered, in your bailiwick, you should cause to be made, &c. (*reciting the fieri facias, de bonis testatoris, &c.*) And you at that day returned to us, (or, in *C. P.* "to our said justices," or, in the *Exchequer*, "to the barons of our said Exchequer,") at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, which were of the said *E. F.* &c. (*reciting the sheriff's return:*) Therefore we command you, that of the proper goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the said —*l.*; and have that money, &c. (*as before, p. 352. in the King's Bench or Common Pleas, or p. 353. in the Exchequer,*) to be rendered to the said *A. B.* for his damages (or, "debt and damages") aforesaid; (or, in the *Exchequer*, "to be then and there paid," &c.): and have there then (or, by original in *K. B.* or *C. P.* or, in the *Exchequer*, "have there") this writ. Witness, &c. (354, 5.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of —, that of the goods and chattels, &c. (*reciting the first writ of fieri facias, de bonis testatoris, &c.*) And

(§ 79.)
Fieri facias
against an executor or administrator,
de bonis propriis,
after a return of
devastavit.
Prac. 1025.

(§ 80.)
The like, after
a *devastavit* re-
turned, on a tes-

tatum fieri facias.

Prac. 1025.

our said sheriff of — at that day returned to us, (or, in *C. P.* “to our said justices,” or, in the *Exchequer*, “to the barons of our said Exchequer,”) at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, &c. (reciting the sheriff's return of *nulla bona*, for which vide ante, p. 367.) Whereupon, on behalf of the said *A. B.* it was sufficiently testified in our said court before us, (omitting “before us,” in the *Common Pleas*, or *Exchequer*,) that the said *C. D.* had sufficient goods and chattels, which were of the said *E. F.* at the time of his death, in the hands of him the said *C. D.* to be administered, in your bailiwick, whereof you might cause to be made the damages (or, “debt and damages”) aforesaid; and we therefore commanded you, that of the goods and chattels, &c. (reciting the *testatum fieri facias*, de bonis testatoris, &c.) And you at that day returned to us, (or, “to our said justices, or barons,”) &c. (reciting the return of *devastavit*, for which vide ante, p. 367.) Therefore we command you, that of the proper goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the damages (or, “debt and damages”) aforesaid; and have that money, &c. (as in the last.)

(§ 81.)
Capius ad satisfaciendum, in
assumpsit, in
K. B.
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, (or, by original, “before us, on —, wheresoever, &c.”) to satisfy *A. B.* of —*l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on the occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: and have there then (or, by original, “have there”) this writ. Witness *Charles Lord Tenterden*, &c. (352.)

(§ 82.)
The like, in
C. P.
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at *Westminster*, on —, to satisfy *A. B.* of —*l.* which the said *A. B.* lately in our same court, before our said justices, at *Westminster* aforesaid, recovered against him, for his damages which he had sustained, on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* at — in your county; whereof the said *C. D.* is convicted: and have there this writ. Witness *Sir William Draper Best* knight, &c. (352.)

(§ 83.)
The like, for
administrator of
surviving plain-
tiff, after *scire*
facias, in *C. P.*
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at *Westminster*, on —, to satisfy *G. H.* administrator of all and singular the goods, chattels and credits, which were of *A. B.* deceased at the

time of his death, who died intestate, and who survived *E. F.* of ——— *l.* CHAP. XLI. which the said *A. B.* and *E. F.* lately in our same court, before our said justices at *Westminster* aforesaid, recovered against him the said *C. D.* for their damages, &c. (*as in the last, to "whereof the said C. D. is convicted," and then as follows:*) And whereupon it is considered in our said court, before our justices aforesaid, that the said *G. H.* administrator as aforesaid, have his execution against the said *C. D.* of the damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.*: and have there this writ. Witness Sir *William Draper Best* knight, &c. (352.)

George the Fourth, &c. (352.) To the sheriff of ———, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *C. D.* wheresoever he shall be found in your bailiwick, and him safely keep, so that you may have his body before the barons of our Exchequer at *Westminster*, on ——— next coming, to satisfy *A. B.* our debtor, of ——— *l.* which the said *A. B.* lately in our court before the barons of our said Exchequer at *Westminster*, recovered against him, for his damages which he had sustained, on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: and have there this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 84.)
The like, in the
Exchequer.
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of ———, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on ——— next after ———, (*or, by original, "on ———, wheresoever,"* &c.) to satisfy *A. B.* of a certain debt of ——— *l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, and also ——— *l.* which in our said court before us, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: and have there then this writ. Witness, &c. (352.)

(§ 85.)
The like, in
debt, in *K. B.*
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of ———, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at *Westminster*, on ———, to satisfy *A. B.* of a certain debt of ——— *l.* which the said *A. B.* lately in our court before our justices at *Westminster*, recovered against him, and also ——— *l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of that debt; whereof the said *C. D.* is convicted: and have there this writ. Witness Sir *William Draper Best* knight, &c. (352.)

(§ 86.)
The like, in
C. P.
Prac. 1025, &c.

George the Fourth, &c. (352.) To the sheriff of ———, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *C. D.* wheresoever he shall be

(§ 87.)
The like, in the
Exchequer.
Prac. 1025, &c.

CHAP. XLI. found in your bailiwick, and him safely keep, so that you may have his body before the barons of our Exchequer at *Westminster*, on — next coming, to satisfy *A. B.* our debtor, as well of a certain debt of — *l.* which the said *A. B.* lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, as also — *l.* which were adjudged to the said *A. B.* in our said court, for his damages which he had sustained, on occasion of the detention of the said debt; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: and have there this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 88.)

The like, after *scire facias* by default, in the Exchequer.

Prac. 1025, &c.

(*As in the last, to the words "whereof the said C. D. is convicted," and then as follows:*) And whereupon it is considered in our said court, before the barons of our said Exchequer, that the said *A. B.* have his execution against the said *C. D.* of the debt and damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* as by inspecting the rolls of our said Exchequer, appears to us: and have there this writ. Witness, &c. (353.)

In *assumpsit*, or *debt*, by or against surviving partners, or by or against executors or administrators, and in *covenant*, *case*, and *trespass*, the form of the writ varies, in like manner as the *fiery facias*; for which *vide ante*, pp. 354, &c. 357, &c.

(§ 89.)

The like, to a county palatine.

Prac. 1025, &c.

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of our said county palatine, you command the said sheriff, that he take *C. D.* if he shall be found in his bailiwick, and him safely keep, so that you may have his body before us (*or, in C. P. "before our justices," or, in the Exchequer, "before the barons of our Exchequer"*) at *Westminster*, on, &c. (382, 3.) to satisfy *A. B.* of — *l.* (*or, "of a certain debt of — l."*) &c. (*as in a common capias ad satisfaciendum, to the end.*)

(§ 90.)

The like, for defendant, on nonsuit, in *K. B.* or *C. P.*

Prac. 993, 1026.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, (*by bill; or, by original, on — where-soever, &c. or, in C. P. before our justices at Westminster, on —,*) to satisfy *C. D.* of — *l.* which lately in our court before us (*in K. B.*) were adjudged to the said *C. D.* (*or, in C. P. which lately in our court before our justices at Westminster, were awarded to the said C. D. by the discretion of the said justices,*) according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in a certain action of trespass on the case upon promises, (*or, as the action is,*) lately brought in our said court before us (*or, in C. P. before our justices*) at *Westminster*, by the said *A. B.* against the said *C. D.* for that the said *A. B.* did not prosecute the said action; whereof, &c. (352.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *A. B. &c. (as in last,)* to satisfy *C. D. —l.* which lately in our court before us, (*in K. B.*) were adjudged to the said *C. D. (or, in C. P. “which lately in our court before our justices at Westminster, were awarded to the said C. D. by the discretion of the said justices,”)* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, (*or, as the action is,*) lately prosecuted in our said court before us, (*or, in C. P. before our said justices,*) by the said *A. B.* against the said *C. D.*; whereof, &c. (352.)

(§ 91.)
The like, for
defendant, on a
verdict.

Prac. 993.
1026.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (*reciting the fieri facias:*) And you at that day returned to us, (*or, in C. P. “to our said justices,” or, in the Exchequer, “to the barons of our said Exchequer,”*) at *Westminster*, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D. —l.* parcel of the damages (*or, “debt and damages”*) aforesaid which money you had ready, at the day and place in the said writ contained, to render to the said *A. B.* for so much of his damages (*or, “debt and damages”*) aforesaid, as by the said writ you were commanded; and that the said *C. D.* had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages (*or, “debt and damages”*) aforesaid, or any part thereof: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before, &c. (382, 3.) on, &c. (*id.*) to satisfy the said *A. B.* of —l. residue of his damages (*or, “debt and damages”*) aforesaid; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, “have there”*) this writ. Witness, &c. (354, 5.)

(§ 92.)
Capias ad satisfacendum, for
the residue.

Prac. 1019.
1027.

George the Fourth, &c. (352.) To the chancellor, &c. (359.) greeting: Whereas by our writ we lately commanded you, that by our writ under the seal of our said county palatine, &c. (*reciting the writ of fieri facias, and return thereto, as in § 56.*) Therefore we command you, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of our said county palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body, before, &c. (382, 3.) on, &c. (*id.*) to satisfy the said *A. B.* of —l. residue of his damages (*or, “debt and damages”*) aforesaid; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, “have there”*) this writ. Witness, &c. (354, 5.)

(§ 93.)
The like, to a
county palatine.
Prac. 1019.
1027.

(§ 94.)

Capias ad satisfaciendum against an executor or administrator, after a *devastavit*, and return of *nulla bona*, to a *fieri facias de bonis propriis*.

Prac. 1025.
1027.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded you, that of the goods and chattels, &c. (*reciting the fieri facias, de bonis testatoris, &c.*) And you at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) that, &c. (*reciting the return of nulla bona testatoris, nec propria, and devastavit, for which vide ante, p. 367.*) Whereupon we lately commanded you, that of the proper goods and chattels, &c. (*reciting the fieri facias, de bonis propriis:*) And you at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the damages (*or, "debt and damages"*) aforesaid: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before, &c. (382, 3.) on, &c. (*id.*) to satisfy the said *A. B.* of his damages (*or, "debt and damages"*) aforesaid; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 95.)

Testatum capias ad satisfaciendum, in a similar case. •

Prac. 1025.
1027.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of —, that of the goods and chattels, &c. (*reciting the fieri facias, de bonis testatoris, &c.*: And our said sheriff of — at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) that, &c. (*reciting the return of nulla bona testatoris, nec propria, and devastavit, for which vide ante, p. 367.*) Whereupon we lately commanded our said sheriff of —, that of the proper goods and chattels, &c. (*reciting the fieri facias, de bonis propriis:*) And our said sheriff of — at that day returned to us, (*or, "to our said justices, or barons,"*) that, &c. (*reciting the return of nulla bona propria:*) Whereupon we commanded our said sheriff of —, that he should take, &c. (*reciting the capias ad satisfaciendum:*) And our said sheriff of — at that day returned, &c. (*as in last,*) that the said *C. D.* was not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (*omitting "before us," in the Common Pleas, or Exchequer,*) that the said *C. D.* runs up and down, and secretes himself in your county: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before, &c. (382, 3.) on, &c. (*id.*) to satisfy the said *A. B.* of his damages (*or, "debt and damages"*) aforesaid; and have there then (*or, by original, in K. B. or C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 96.)

Entry of return of devastavit, upon a fieri facias de bonis testatoris, &c. to the county pa-

At which day, before the lord the king at *Westminster*, comes the said *A. B.* in his proper person; and —, chancellor of the bishoprick of *Durham* aforesaid, returns, that by virtue of the said writ to him thereupon directed, he hath commanded the sheriff of the county of *Durham* aforesaid, that the said sheriff should in all things fully execute the said

writ of the said lord the king; which said sheriff answered him, that before the coming of the said writ of the said lord the king to him directed, divers goods and chattels, which were of the said *E. F.* deceased at the time of his death, came to the hands and possession of the said *C. D.* to be administered, which said goods and chattels the said *C. D.* afterwards, and before the coming of the said writ to him, had cloigned, wasted, and converted to his own use; wherefore the said sheriff could not cause the said — *l.* for the damages aforesaid, or any part thereof, to be made of the goods and chattels which were of the said *E. F.* deceased, as by the said writ he was commanded; and the said sheriff further answered the said chancellor, that of the proper goods and chattels of the said *C. D.* he had caused to be made the said — *l.* for the costs and charges aforesaid, as he was commanded: which said — *l.* by the said sheriff brought here into court, by the same court here are delivered to the said *A. B.* in part of the damages aforesaid; therefore let the said sheriff be acquitted of the said — *l.* &c. And as to — *l.* residue of the damages aforesaid, it is considered, that the said *A. B.* have execution against the said *C. D.* of the said — *l.* residue of the damages aforesaid, of the proper goods and chattels of the said *C. D.* Therefore it is commanded to the said chancellor of the bishoprick aforesaid, that by the writ of the said lord the king to be duly made, and directed to the sheriff of the said county of *Durham*, he cause it to be commanded to the sheriff of that county, that of the proper goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the said — *l.* residue of the damages aforesaid; and that he have that money before the said lord the king at *Westminster*, on — next after —, (or, by original, “before the said lord the king, on — wheresoever,” &c.) to be rendered to the said *A. B.* in form aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said —, chancellor of the bishoprick aforesaid, returns, that by virtue of the said writ to him thereupon directed, he hath commanded the sheriff of the said county of *Durham*, that the said sheriff should in all things fully execute that writ; which said sheriff answered him, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the said — *l.* or any part thereof: Therefore it is commanded to the chancellor of the bishoprick aforesaid, that by the writ, &c. he cause it to be commanded, &c. that the said sheriff take the said *C. D.* if, &c. and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after —, (or, by original, “before the said lord the king, on —, wheresoever,” &c.) to satisfy the said *A. B.* of the said — *l.* residue of the damages aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said chancellor of the bishoprick aforesaid returns, that by virtue, &c. he commanded the said sheriff, &c.; which said sheriff an-

latine of *Durham*, and award of *fieri facias, de bonis propriis*; and, upon the return of part levied, award of *capias ad satisfaciendum*, and *testatum*, for the residue, in *K. B.*

Prac. 1025.
1027.

CHAP. XLI. swered him, that the said *C. D.* was not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is testified in our said court here, that the said *C. D.* runs up and down, and secretes himself in the county of —: Therefore it is commanded to the sheriff of —, that he take the said *C. D.* if, &c. and him safely keep, so that he have, &c. on —, to satisfy the said *A. B.* of the said —*l.* residue of the damages aforesaid: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff of — aforesaid returns, that the said *C. D.* is not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* runs up and down, and secretes himself in the county of —: Therefore it is commanded to the sheriff of —, that he take the said *C. D.* if, &c. and him safely keep, so that he have, &c. on —, to satisfy the said *A. B.* of the residue of the damages aforesaid, in form aforesaid; the same day is given to the said *A. B.* there, &c.

(§ 97.)
Return of *cepi*
corpus.
Prac. 1028.

I have taken the within-named *C. D.* whose body I have ready, at the day and place within-contained, as within I am commanded.

The answer of —, sheriff.

(§ 98.)
Non est inven-
tus.

The within-named *C. D.* is not found in my bailiwick.

The answer, &c. (*as above.*)

(§ 98. a.)
Cepi corpus as to
one defendant,
and *non est in-*
ventus as to an-
other.

I have taken the within-named *C. D.* whose body I have ready, at the day and place within contained, as within I am commanded: but the within-named *E. F.* is not found in my bailiwick.

The answer, &c. (*as above.*)

(§ 99.)
That the de-
fendant had
become bank-
rupt, and ob-
tained his cer-
tificate; where-
fore the sheriff
forbore to take
him.

Prac. 1028.

I do hereby certify and return to the lord the king, (*or, in C. P.* “to the justices of the lord the king,” *or, in the Exchequer*, “to the barons of his majesty’s Exchequer,”) at *Westminster*, that before the coming of the annexed writ to me directed, to wit, on the — day of — in the year of our Lord 18—, *C. D.* in the said writ named, then being a —, dealer and chapman, and being then indebted to *E. F.* a subject of this kingdom, in the sum of 100*l.* and upwards, and being also then indebted to divers other subjects of this kingdom, in divers other large sums of money, became a bankrupt, within the true intent and meaning of the statute made and then in force concerning bankrupts; and thereupon a certain commission of bankrupt, under the great seal of the united kingdom of *Great Britain* and *Ireland*, bearing date at *Westminster* the day and year last aforesaid, was duly awarded and issued, at the petition of the said *E. F.* against the said *C. D.* directed to certain commissioners therein named; and the said *C. D.* was thereupon duly found and declared a bankrupt, by the major part of the said commissioners: And I do hereby further certify and return, that the said *C. D.* at the several meetings appointed for his surrendering himself, and making a discovery and disclosure of his estate and effects, and finishing

his examination, duly surrendered himself to the major part of the said commissioners, and submitted to be examined from time to time ; and at the last of the said meetings, finished his examination upon oath, before the major part of the said commissioners ; and upon such his examination, made a full discovery and disclosure of his estate and effects, and in all things conformed himself to the directions of the statute made and then in force concerning bankrupts ; and that the said *C. D.* afterwards, and after the recovery of the damages in the said writ mentioned, and before the coming of the said writ to me directed, to wit, on the — day of — in the said year of our Lord 18—, duly obtained his certificate of conformity to the statute aforesaid ; and which certificate afterwards, and before the coming of the said writ to me directed, was duly allowed and confirmed by the right honourable *John Singleton Lord Lyndhurst*, then being lord high chancellor of *Great Britain*, according to the form of the statute in such case made and provided : And I hereby further certify and return, that the cause of action upon which the recovery in the said writ mentioned was had and obtained, accrued to *A. B.* in the said writ named, against the said *C. D.* before such time as the said *C. D.* so became a bankrupt : Wherefore I the said sheriff, having notice of all and singular the premises aforesaid, did forbear to take the body of the said *C. D.* as within I am commanded.

The answer, &c. (388.)

By virtue of this writ to me directed, I took the within-named *C. D.* at a certain dwelling house, situate in the parish of — in my county, and afterwards removed her, with great difficulty, to a certain other dwelling house, situate in the parish of — in my said county ; but the said *C. D.* was then so aged, sick and ill, and in so weak infirm and debilitated a state, that she could not be taken or removed from the said last-mentioned dwelling house, to the common gaol of my said county, without great peril and danger of her life ; and that she the said *C. D.* for the cause aforesaid, remained and continued in my custody, in the said last-mentioned dwelling house, so aged sick and ill, and in such a weak infirm and debilitated state as aforesaid, from thence until and at the time of my going out of office.

The answer, &c. (388.)

The writ, as above indorsed, was delivered to me the under-signed now sheriff, by the above-named late sheriff of my county, at the time of his going out of office : And I further certify and return, that the said *C. D.* for the cause above-mentioned, remained and continued in the said last-mentioned dwelling house, so aged sick and ill, and in such a weak and debilitated state as aforesaid, so that she could not be taken or removed from the said last-mentioned dwelling house, to the common gaol of my said county, without great peril and danger of her life, continually from and after the time of the said late sheriff's going out of office, until and upon the — day of — last, when the said *C. D.* died : Wherefore I cannot have the body of the said *C. D.* before the justices of the lord the king, at the day and place within contained, as within I am commanded.

The answer, &c. (388.)

(§ 100.)
Return of *lan-*
guidus, &c. by
the late and
present sheriffs.
Proc. 1028.

(§ 101.)
Mandavi ballivo.
Prac. 1018.
 1025. 1028.

By virtue of this writ to me directed, I made my mandate to the bailiff of *E. F. Esquire*, of his liberty of —, who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath not given me any answer thereto. (*Or*, hath answered me thus: "I have taken the within-named *C. D.* whose body I have ready," &c.)
 The answer, &c. (388.)

(§ 102.)
Non omittas capias ad satisfaciendum.

Prac. 1028.

(§ 103.)
Testatum capias ad satisfaciendum.

Prac. 1028.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and take, &c. (*as in other cases.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* &c. (*as before, pp. 382, 3. in the King's Bench or Common Pleas, or pp. 383, 4. in the Exchequer, to the words "whereof, &c. and then as follows:)"* And whereupon our sheriff of —, at a certain day now past, returned to us (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer"*) at *Westminster*, that the said *C. D.* was not found in his bailiwick; whereas it is testified in our same court, that the said *C. D.* runs up and down, and secretes himself in your county; and have there then (*or, by original in K. B. or C. P. or, in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 104.)
Entry and award of capias ad satisfaciendum, and testatum, in K. B.

Prac. 1023.
 1028.

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court, by his attorney aforesaid; and prays the writ of the lord the king of *capias ad satisfaciendum*, to be directed to the sheriff of —, commanding him, that he take the said *C. D.* if he be found in his bailiwick, and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after —, (*or, by original, "before the said lord the king, on —, wheresoever," &c.*) to satisfy the said *A. B.* his damages (*or, "debt and damages,"*) aforesaid; and it is granted to him, &c.; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit —, sheriff of the county aforesaid, now here returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* is not found in his bailiwick: Whereupon the said *A. B.* prays another writ of the said lord the king of *capias ad satisfaciendum*, to be directed to the said sheriff of —, commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —, (*or, by original, "before the said lord the king, on —, wheresoever," &c.*); the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff hath not sent the said last-mentioned writ, nor hath he done any thing thereupon: Whereupon, on behalf of the said *A. B.* it is sufficiently testified in the said

court of the said lord the king before the king himself, that the said *C. D.* runs up and down and secretes himself in the county of — ; and thereupon the said *A. B.* prays the writ of the said lord the king of *testatum capias ad satisfaciendum* against the said *C. D.* to be directed to the sheriff of the said county of —, commanding him in form aforesaid ; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —, (*or, by original, “ before the said lord the king, on — wheresoever,” &c.*) ; the same day is given to the said *A. B.* at the same place.

George the Fourth, &c. (352.) To the chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the said county palatine, you command the said sheriff, that he take *C. D. &c. (as before, p. 385. to the words “ whereof the said C. D. is convicted,” and then as follows:)* And whereupon our sheriff of —, at a certain day now past, returned, &c. (*as in the last but one.*)

(§ 105.)
Testatum capias ad satisfaciendum, to a county palatine.
Prac. 1028.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded our chancellor of our county palatine of *Lancaster*, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of our said county palatine, he should command the said sheriff, that he should take, &c. (*reciting the former writ, to the words, “ whereof,” &c.*) And our said chancellor of our said county palatine at that day returned to us, (*or, in C. P. “ to our said justices,” or, in the Exchequer, “ to the barons of our said Exchequer,”*) that by virtue of the said writ to him directed, he had, by another writ under the seal of our said county palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said first-mentioned writ he was commanded ; which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick ; whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (*omitting “ before us,” in the Common Pleas, or Exchequer,*) that the said *C. D.* runs up and down, and secretes himself in your county: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us (*or, “ before our said justices, or barons”*) at *Westminster*, on, &c. (382, 3.) to satisfy the said *A. B.* of his damages (*or, “ debt and damages”*) aforesaid ; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, “ have there”*) this writ. Witness, &c. (354, 5.)

(§ 106.)
The like, from a county palatine.
Prac. 1028.

George the Fourth, &c. (352.) To our chamberlain of our county palatine of *Chester*, or to his deputy there, greeting: Whereas by our writ we lately commanded our chancellor of our county palatine of *Lancaster*, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county palatine, he should command the said sheriff, that he should take, &c. (*reciting the former*

(§ 107.)
The like, from one county palatine to another.
Prac. 1028.

CHAP. XLI. *writ, to the words "whereof," &c.*) And our said chancellor of our said county palatine of *Lancaster*, at that day returned to us, (*or, in C. P. "to our said justices," or, in the Exchequer, "to the barons of our said Exchequer,"*) that by virtue of our said writ to him directed, he had, by another writ, &c. (*as in the last:*) which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick; whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (*omitting "before us," in the Common Pleas, or Exchequer,*) that the said *C. D.* runs up and down, and secretes himself in our said county palatine of *Chester*: Therefore we command you, that by our writ under the seal of our said county palatine of *Chester* to be duly made, and directed to the sheriff of the same county palatine, you command the said last-mentioned sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before, &c. (*as in the last,*) on, &c. (382, 3.) to satisfy the said *A. B.* of his damages (*or, "debt and damages"*) aforesaid; and have there then (*or, by original in K. B. or C. P. or in the Exchequer, "have there"*) this writ. Witness, &c. (354, 5.)

(§ 108.)
The like, to a
county palatine,
after a removal
from the Great
Sessions by *certiorari*, under
the statute 33
Geo. III. c. 68.
in *K. B.*

Prac. 1028.

George the Fourth, &c. (352.) To the chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: Whereas we lately commanded our sheriff of —, that he should take *C. D.* late of —, if he should be found in his bailiwick, and him safely keep, so that he might have his body before our justices of the great sessions, holden at —, in and for the county of —, on a certain day now past, to satisfy *A. B.* of —*l.* (*or, "of a certain debt of —*l.*"*) which the said *A. B.* lately in our court of great sessions, holden at — aforesaid, in and for the said county of —, before — our chief-justice of — aforesaid, and — our other justice of the said county, had recovered against him the said *C. D.* &c.; whereof the said *C. D.* was convicted, as appeared to us of record: And our said sheriff of — at that day returned to our said justices, at the great sessions aforesaid, that the said *C. D.* was not found in his bailiwick: And afterwards, for certain reasons, we caused the transcript of the record of the said recovery, to be duly certified and removed from and out of our said court of the great sessions aforesaid, into our court before us at *Westminster*, according to the form of the statute in such case made and provided: And now, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* runs up and down, and secretes himself in our said county palatine: Therefore we command you, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of the said county palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us, on —, wheresoever we shall then be in *England*, to satisfy the said *A. B.* of his damages (*or, "debt and damages"*) aforesaid; and have there this writ. Witness, &c. (352.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you cause *C. D.* late of — to be demanded from county court to county court, (or, *if in London*, “from husting to husting,”) until, according to the law and custom of *England*, he be outlawed, if he do not appear; and if he do appear, then that you take him, and cause him to be safely kept, so that you may have his body before us, on — wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) to satisfy *A. B.* of — *l.* (or, “of a certain debt of — *l.*”) which the said *A. B.* lately in our court before us at *Westminster*, (or, “in our said court,” in *C. P.*) recovered against him. &c. (as in a common *capias ad satisfaciendum*, to the words “whereof,” &c.) And whereupon you returned to us, (or, in *C. P.* “to our said justices,”) on, &c. (the return day of the *capias ad satisfaciendum*,) last past, that the said *C. D.* was not found in your bailiwick; and have there this writ. Witness, &c. (352.)

(§ 109.)
Exigi facias,
after *capias ad*
satisfaciendum.
Prac. 1028.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded you, by our writ, that you should not omit, &c. (reciting the writ of *ca. sa.* to the words “appears to us;”) as in the said writ is more fully contained: Nevertheless because, after the issuing of the said writ, it appeared to the barons of our said Exchequer at *Westminster* aforesaid, that the said writ issued erroneously; therefore we command you, that if the said *A. B.* be detained in your custody for that cause, and no other, then you suffer him to go at large, as you will answer the contrary at your peril. Witness Sir *William Alexander* knight, &c. (353.)

(§ 110.)
Superseatas to
capias ad satis-
faciendum, irre-
gularly issued,
in the Exche-
quer.
Prac. 1032.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, (or, *by original*, “by our writ,”) and by the judgment of the same court, recovered against *C. D.* — *l.* which in our said court before us were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or, *if in debt*, “recovered against *C. D.* a certain debt of — *l.* and also —, which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And afterwards, the said *A. B.* came into our court before us, and, according to the form of the statute in such case made and provided, chose to be delivered to him, all the goods and chattels of the said *C. D.* except his oxen and beasts of the plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick; to hold to him the said goods and chattels, as his proper goods and chattels, and to hold a moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the said statute, until the damages

(§ 111.)
Elegit, in *K. B.*
Prac. 1025.
1033, &c.

CHAP. XLI. (or, "debt and damages") aforesaid should be thereof fully levied : Therefore we command you, that without delay, you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* in your bailiwick, except his oxen and beasts of the plough, and also a moiety of all the lands and tenements in your bailiwick, whereof the said *C. D.* or any person or persons in trust for him, on the — day of — in the — year of our reign, (*the day of signing judgment,*) on which day the judgment aforesaid was given, or ever afterwards, was seised ; to hold the said goods and chattels to the said *A. B.* as his proper goods and chattels, and also to hold the said moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or, "debt and damages") aforesaid shall be thereof fully levied * : And in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, (or, *by original*, "on —, wheresoever we shall then be in *England*,") under your seal, and the seals of those by whose oath you shall make the said extent and appraisement ; and have there then (or, *by original*, "have there") this writ. Witness *Charles Lord Tenterden*, &c. (352.)

(§ 112.)
The like, in
C. P.

Prac. 1033, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before our justices at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* — *l.* which in our said court were adjudged, &c. (*as in the last, omitting the costs ;*) whereof the said *C. D.* is convicted : And afterwards, the said *A. B.* came into our court, before our said justices, at *Westminster* aforesaid ; and according to the form of the statute, &c. (393.) chose to be delivered to him, &c. (*as in the last, to the return of the writ, which is as follows :*) And in what manner you shall have executed this our writ, make appear to our justices at *Westminster*, on — ; and have there this writ. Witness *Sir William Draper Best* knight, &c. (352.)

(§ 113.)
The like, in the
Exchequer.

Prac. 1033, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, in this present — term, (or, "heretofore, that is to say, in the term of — last past, or, in the — year of our reign,") by the consideration and judgment of the same court, recovered against *C. D.* — *l.* which in our said court were adjudged, &c. (*as in the last but one, omitting the costs :*) whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us : And afterwards the said *A. B.* came into our court, before the barons of our said Exchequer, at *Westminster* aforesaid ; and according to the form of the statute, &c. (393.) chose to be delivered to him, &c. (*as in the last but one, to the return of the writ, which is as follows :*) And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster*, on — next coming ; and have there this writ. Witness *Sir William Alexander* knight, &c. (353.)

(§ 114.)
The like, to a
county palatine,

George the Fourth, &c. (352.) To the chancellor, &c. (359.) Whereas *A. B.* lately in our court, &c. (*stating the judgment, as in § 111.*) *K. B.*

or § 112. C. P.) And afterwards, the said *A. B.* came into our said court before us, (or, in *C. P.* "before our said justices,") at *Westminster* aforesaid; and according to the form of the statute in such case made and provided, chose to be delivered to him, all the goods and chattels of the said *C. D.* except his oxen and beasts of the plough, and also a moiety of all the lands and tenements of the said *C. D.* in our said county palatine, (or, in *Durham*, in the county of *Durham*;) to hold, &c. (as in § 111. to the mandatory part of the writ, which is as follows :) Therefore we command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, (or, if in *Durham*, "that by our writ, under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of *Durham*," you cause the said sheriff to be commanded,) that without delay he cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* in his bailiwick, except his oxen and beasts of the plough, and also a moiety of all the lands and tenements, in our said county palatine, (or, in *Durham*, "in the said county of *Durham*,") whereof, &c. (as in § 111. to the asterisk :) And in what manner he shall have executed the said last-mentioned writ, make appear to us at *Westminster*, on — next after —, (or, by original in *K. B.* "on —, wheresoever we shall then be in *England*," or, in *C. P.* "to our justices at *Westminster*, on —,") under his seal, and the seals of those by whose oath he shall make the said extent and appraisement; and have you there then, (or, by original in *K. B.* or in *C. P.* "have there") this writ. Witness, &c. (352.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, &c. (as before, § 111. to the mandatory part of the writ, and then as follows :) Therefore we command you, that you omit not by reason of any liberty of your county, but that you enter the same, and without delay cause to be delivered, &c. (as in § 111. to the end.)

The within-named defendant has no goods or chattels, nor any lands or tenements, in my bailiwick, whereof I can cause to be levied the damages (or "debt and damages") within-mentioned, or any part thereof, as within I am commanded. The answer of —, sheriff.

The execution of this writ appears in the inquisition hereunto annexed.

The answer, &c. (as above.)

— to wit. An inquisition indented, taken at — in the county of —, the — day of — in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before me —, sheriff of the county aforesaid, by virtue of his majesty's writ to me directed, and to this inquisition annexed, by the oath of *E. F.* (&c.) twelve honest and lawful men of the county aforesaid; who being sworn and charged, say upon their oath, that *C. D.* named in the said writ to this inquisition annexed, on the day of taking this inquisition, was possessed of the goods and chattels following, to

in *K. B.* or
C. P.
Prac. 1033, &c.

(§ 114. a.)
*Non omittas
elegit.*
Prac. 1033, &c.

(§ 114. b.)
Return to *elegit*,
that defendant
has no goods, or
lands, &c.
Prac. 1036.

(§ 115.)
The like, and
inquisition
thereon, where
goods were
found, and lands
extended, subject
to a mortgage
term.
Prac. 1036.

CHAP. XLI. wit, —, of the price of —, &c. (*here set out the goods, and the price or value of them,*) as of his own proper goods, and chattels; which said goods and chattels, I the said sheriff have caused to be delivered to the said *A. B.* to hold to him the said goods and chattels, as his own proper goods and chattels, in part satisfaction of his damages (*or, “debt and damages”*) in the said writ mentioned: And the jurors aforesaid upon their oath further say, that the said *C. D.* on the — day of — in the — year of his said majesty’s reign, being the day on which the judgment in the said writ specified was given, was seised in his demesne as of fee of and in one messuage, and one close of pasture thereto adjoining, with the appurtenances, containing by estimation — acres, more or less, situate, lying and being in the parish of — in the county aforesaid, and now or late in the tenure or occupation of —, and being of the clear yearly value of —*l.* in all issues, beyond reprises; and also of and in one other close, &c. (*as above,*) and (*if the premises are in mortgage, say,*) which said premises are subject to a mortgage made thereof by the said *C. D.* to one *E. F.* of —, by indenture bearing date, (&c.) for the term of — years, at the yearly rent of one peppercorn, subject to redemption, on payment of —*l.* and interest at *5l. per cent. per annum*, at a day since past: And the jurors aforesaid upon their oath aforesaid further say, that the said messuage, &c. (*describing a moiety of the premises,*) subject as aforesaid, are a true and equal moiety of all and singular the lands and tenements in my bailiwick, whereof the said *C. D.* or any person in trust for him, on the day in the said writ in that behalf mentioned, or ever afterwards, was seised: which said moiety I the said sheriff, on the aforesaid day of taking this inquisition, have caused to be delivered to the said *A. B.* in the said writ named, subject as aforesaid, by a reasonable price and extent; to hold to him and his assigns, as his freehold, according to the form of the statute in such case made and provided, until he shall have thereof fully levied the said damages, (*or “debt and damages,”*) in the said writ specified, as by the said writ it is commanded: And lastly, the jurors aforesaid, upon their oath aforesaid say, that the said *C. D.* in the said writ named, on the aforesaid day of taking this inquisition, had not any other or more goods or chattels in my bailiwick; nor had he, or any person or persons in trust for him, on the day the judgment aforesaid was given, or at any time afterwards, any other or more lands or tenements in the county aforesaid, to the knowledge of the said jurors. In witness whereof, as well I the said sheriff, as the jurors aforesaid, have set our seals to this inquisition, on the day and year, and at the place aforesaid.

(§ 116.)
The like, where
the defendant
had no goods,
but lands holden
in joint tenancy
were extended.
Prac. 1036.

— to wit. An inquisition indented, &c. (*as in last, to the words “sworn and charged,” and then as follows:*) say upon their oath, that *C. D.* named in the said writ to this inquisition annexed, on the day of taking this inquisition, had no goods or chattels in my bailiwick, to the knowledge of the said jurors: And the jurors aforesaid, upon their oath aforesaid, further say, that the said *C. D.* on the — day of — in the — year of his said majesty’s reign, being the day on which the judg-

ment in the said writ specified was given, was seised in his demesne as of
fec, of and in one undivided moiety, (the whole into two equal moieties to
be divided,) of and in one messuage, &c. (*stating the whole of the pre-
mises, as in last.*) And the jurors aforesaid, upon their oath aforesaid,
further say, that the said messuage, &c. (*describing a moiety of the pre-
mises,*) are a true and equal moiety of all and singular the lands and te-
nements of the said *C. D.* in the said writ named, in my bailiwick, where-
of the said *C. D.* or any person in trust for him, on the day in the said
writ in that behalf mentioned, or ever afterwards, was seised; and that I
the said sheriff, on the aforesaid day of taking the said inquisition, have
caused to be delivered to the said *A. B.* in the said writ named, by a rea-
sonable price and extent, one undivided moiety, (the whole into two equal
moieties to be divided,) of the said messuage, &c. (*the moiety of the pre-
mises:*) to hold to him and his assigns, as his freehold, according to the
form of the statute in such case made and provided, until he shall have
thereof fully levied the damages (*or, "debt and damages"*) in the said
writ specified, as by the said writ it is commanded. In witness whereof,
&c. (*as in last.*)

Afterwards, that is to say, on — next after — then next follow-
ing, before the said lord the king at *Westminster*, comes (*or, in the
Common Pleas or Exchequer, "Afterwards, &c. comes here,"*) the said
A. B. by his attorney aforesaid, and according to the form of the statute
in such case made and provided, chooses to be delivered to him, all the
goods and chattels of the said *C. D.* except his oxen and beasts of the
plough, and also a moiety of all the lands and tenements of the said
C. D.; to hold to him the goods and chattels aforesaid, as his proper goods
and chattels, and to hold a moiety of the lands and tenements aforesaid,
to him and his assigns, as his freehold, according to the form of the
statute aforesaid, until the damages (*or, "debt and damages"*) aforesaid
shall be thereof fully levied; and he prays the writ of our said lord the
king thereupon, to be directed to the sheriff of —, and it is granted
to him, &c. returnable before the said lord the king at *Westminster*, on
— next after —, (*or, in the Common Pleas or Exchequer, "return-
able here," on, &c. as in p. 394*); the same day is given to the said
A. B. there, (*or, in the Common Pleas or Exchequer, "here,"*) &c. At
which day, before the said lord the king at *Westminster*, comes (*or, in
the Common Pleas or Exchequer, "At which day comes here,"*) the said
A. B. by his attorney aforesaid; and the sheriff, to wit, — Esquire,
sheriff of the said county aforesaid, now here returns the writ aforesaid,
to him in form aforesaid directed, in all things served and executed, to-
gether with a certain inquisition to the said writ annexed, taken before
the said sheriff in the premises, by virtue of the said writ; which said
inquisition follows in these words, that is to say: — to wit. An in-
quisition, &c. (*here copy the inquisition.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting:
Whereas *A. B.* lately in our court, &c. (*stating the judgment, as in § 111.
K. B. or § 112. C. P.*) And afterwards, the said *A. B.* came into our

(§ 117.)
Award of *elegit*
on the roll, and
return of in-
quisition thereon.
Prac. 1034.
1037.

(§ 117. a.)
Testatum elegit.
Prac. 1034.

CHAP. XLI. said court before us, (*or, in C. P. "before our said justices,"*) at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, chose to be delivered to him, all the goods and chattels of the said *C. D.* except his oxen and beasts of the plough, and also a moiety of all the lands and tenements of the said *C. D.* in the bailiwick of the sheriff of — ; to hold, &c. (*as in § 111. to the mandatory part of the writ, and then as follows :*) Therefore, by our writ, we lately commanded the said sheriff of —, that without delay he should cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* in his bailiwick, except his oxen and beasts of the plough, and also a moiety of all the lands and tenements in his bailiwick, whereof, &c. (*as in § 111. to the asterisk, and then as follows :*) And in what manner he should have executed that our writ, he should make appear to us at *Westminster*, on — next after —, (*or, by original in K. B. "on —, wheresoever we should then be in England" ; or, in C. P. "before our justices at Westminster, on —,"*) under his seal, and the seals of those by whose oath he should have made the said extent and appraisement : And our said sheriff of —, at that day returned to us, (*or, in C. P. "to our said justices,"*) at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, nor any lands or tenements, in his bailiwick, whereof he could cause to be levied the damages (*or, "debt and damages"*) aforesaid, or any part thereof. Whereupon, on the behalf of the said *A. B.* it is testified in our said court, that the said *C. D.* hath divers goods and chattels, and also divers lands and tenements, in your bailiwick, whereof you may cause to be levied the said damages, (*or, "debt and damages,"*) as aforesaid : And the said *A. B.* thereupon, according to the form of the statute in such case made and provided, humbly prays, and chooses to be delivered to him, all the goods and chattels of the said *C. D.* except his oxen and beasts of the plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick ; to hold to him the said last-mentioned goods and chattels, as his proper goods and chattels, and to hold a moiety of the lands and tenements last aforesaid, to him and his assigns, as his freehold, according to the form of the said statute, until the damages (*or, "debt and damages"*) aforesaid shall be thereof fully levied : Therefore we command you, that without delay you cause to be delivered, &c. (*as in § 111. to the asterisk, and then as follows :*) And in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, (*or, by original in K. B. "on —, wheresoever we shall then be in England," or in C. P. "to our justices at Westminster, on —,"*) under your seal, and the seals of those by whose oath you shall make the said extent and appraisement ; and have there then (*or, by original in K. B. or in C. P. "have there"*) this writ. Witness, &c. (352.)

(§ 118.)

Award of several writs of *elegit*, into different counties, and on the sheriff's not

And thereupon the said *A. B.* according to the form of the statute in such case made and provided, chose to be delivered to him, all the goods and chattels of the said *C. D.* except his oxen and beasts of the plough, and also a moiety of all the lands and tenements, which were of the said

C. D. in the counties of *M.* and *S.* on the day of rendering the judgment aforesaid, or at any time afterwards; to hold the goods and chattels aforesaid, as his proper goods and chattels, and also to hold a moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, by a reasonable price and extent, until he shall have thereof fully levied the damages (*or*, "debt and damages") aforesaid: And the said *A. B.* prays the several writs of the lord the king thereupon, to be directed to the sheriffs of *M.* and *S.* severally, in form aforesaid; and they are granted to him, returnable before the said lord the king at *Westminster*, on — next after —; (*or, by original in K. B.* "before the said lord the king, on — wheresoever he shall then be in *England*;" *or, in C. P.* "before the justices of the said lord the king at *Westminster*, on —;") the same day is given to the said *A. B.* at the same place; (*or, in C. P.* "here, &c.") At which day, before the said lord the king at *Westminster*, comes (*or, in C. P.* "At which day comes here,") the said *A. B.* in his proper person; and the sheriffs of *M.* and *S.* aforesaid did not send the several writs aforesaid, to them thereupon severally directed, nor did either of them send the writ aforesaid, to him thereupon directed, nor do any thing thereupon: Therefore, as before, the said *A. B.* prays the several other writs of the said lord the king, to be directed to the sheriffs of *M.* and *S.* aforesaid severally, in form aforesaid, and they are granted to him, returnable, &c. (*as above*;) the same day is given to the said *A. B.* at the same place, (*or, in C. P.* "here, &c.")

executing them,
award of other
writs.

Prac. 1034.

Afterwards, that is to say, on —, (*the teste of the second writ*;) before the lord the king at *Westminster*, comes (*or, in C. P.* "At which day comes here,") the said *A. B.* by his attorney aforesaid; and gives the court here to understand and be informed, that the said *C. D.* on the — day of —, in the — year of the reign of the said lord the king, (being the day on which the judgment aforesaid was given,) had, and still hath, divers other lands and tenements in the said county, besides those which are mentioned in the return to the said writ; one moiety of which said other lands and tenements, the said *C. D.* ought also to have in execution, for the more speedy recovery of his damages (*or*, "debt and damages") aforesaid: And the said *A. B.* humbly prays, and chooses the same to be delivered to him accordingly; to hold to him and his assigns, as his freehold, according to the form of the said statute, until the damages (*or* "debt and damages") aforesaid shall be thereof fully levied; and he prays the writ of the said lord the king thereupon, to be directed to the sheriff of the said county of —, and it is granted to him, returnable before the said lord the king, on — next after —, (*or, by original in K. B.* "on —, wheresoever the said lord the king shall then be in *England*;" *or in C. P.* "before the justices here, on —;") the same day is given to the said *A. B.* at the same place, (*or, in C. P.* "here, &c.")

(§ 119.)

Award of re-
elegit, in *K. B.*
or *C. P.*

Prac. 1034.
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George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, &c. (*reciting the first writ*;) And you on that day returned to us (*or, in C. P.* "to our said justices," *or, in the Exchequer*, "to the barons of our said Exchequer") at *Westminster*, a cer-

(§ 120.)
Writ of re-elegit.
Prac. 1037.

CHAP. XLI. tain inquisition indented, taken before you, at —, on the — day of — last past, by the oath, &c. (395.) whereby it is found, &c. (*reciting the return*;) And because we are now given to understand, in our said court before us, (*omitting* “before us,” in the *Common Pleas or Exchequer*;) that the said *C. D.* at the time of giving the judgment aforesaid, and afterwards had, and still hath, divers other lands and tenements in your county, besides those which are mentioned in the return above set forth, one moiety of which said other lands and tenements the said *A. B.* ought also to have in execution, for the more speedy recovery of his damages (*or*, “debt and damages”) aforesaid; therefore the said *A. B.* hath humbly besought us, that he may so have them, according to due course of law: Therefore we command you, that you cause to be delivered to the said *A. B.* in the presence of the said *C. D.* to be warned on that occasion, if he will attend, a moiety of all the other lands and tenements of the said *C. D.* in your bailiwick, as well as of those whereof a moiety is before extended in execution, for the payment of the damages (*or*, “debt and damages”) aforesaid; to hold to the said *A. B.* and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (*or*, “debt and damages”) aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, &c. (*as before*, § 111. in *K. B.* § 112. in *C. P.* and § 113. in the *Exchequer*.)

(§ 121.)
Entry of quashing inquisition, for defects therein, and award of new writ of *elegit*.

Prac. 1036.

Afterwards, that is to say, on —, (*the teste of the second writ*;) before the said lord the king at *Westminster*, comes (*or*, in *C. P.* “At which day comes here,”) the said *A. B.* by his attorney aforesaid; and shews to the court here, that the inquisition aforesaid, by the said sheriff in form aforesaid taken and returned upon the said writ of *elegit*, is uncertain, insufficient, and bad in law, in this, to wit, that the premises therein stated to be delivered by the said sheriff to the said *A. B.* as a true and equal moiety of all and singular the lands and tenements of the said *C. D.* in the county of — aforesaid, are not in and by the said inquisition set out by metes and bounds, nor otherwise described with convenient certainty, so that the said *A. B.* could have and hold the said moiety as his freehold, to him and his assigns, according to the form of the writ aforesaid: Therefore the said *A. B.* prays, that for the defect aforesaid, as well the said writ of *elegit*, as the inquisition aforesaid in form aforesaid taken and returned, be vacated, annulled, and altogether holden for nothing; and that another writ of the said lord the king may be issued, and directed to the sheriff of the county aforesaid: And thereupon the aforesaid writ and return being seen, and by the court here fully understood, it appears to the said court here, that the allegation aforesaid of the said *A. B.* is true, and that the inquisition aforesaid is uncertain, insufficient, and bad in law: Therefore it is considered, that as well the aforesaid writ of *elegit*, as the inquisition aforesaid, by the said sheriff, by virtue of the said writ, in form aforesaid taken and returned, be vacated, annulled, and altogether holden for nothing: And thereupon the said *A. B.* by his attorney aforesaid, according to the form

of the statute in such case made and provided, chooses, as before, to be delivered to him, all the goods and chattels, &c. (*as in* § 117.) CHAP. XLI.

Afterwards, that is to say, on —, (*the teste of the fieri facias*.) before the said lord the king at *Westminster*, comes (*or, in C. P.* “At which day comes here,”) the said *A. B.* by his attorney aforesaid, and prays the writ of the said lord the king of *fieri facias*, to be directed to the sheriff of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (*or, “debt and damages”*) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —, (*or, by original, in K. B.* on —, wheresoever the said lord the king shall then be in *England*; *or, in C. P.* before the justices of the said lord the king at *Westminster*, on —;) the same day is given to the said *A. B.* at the same place, (*or, in C. P.* here, &c.) At which day, before the said lord the king at *Westminster*, comes (*or, in C. P.* “At which day comes here,”) the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, *E. F.* Esquire, sheriff of — aforesaid, now here returns to the said lord the king at *Westminster*, (*or, in C. P.* to the said justices here,) that by virtue of the said writ to him directed, he has caused to be made of the goods and chattels of the said *C. D.* in his bailiwick, — *l.* parcel of the damages (*or, “debt and damages”*) aforesaid; which money he has ready at the day and place in the said writ contained, to render to the said *A. B.* for so much of his damages (*or, “debt and damages”*) aforesaid, as by the said writ he is commanded; and that the said *C. D.* has not any other or more goods and chattels in his bailiwick, whereof he can cause to be made the residue of the damages (*or, “debt and damages”*) aforesaid, or any part thereof: And for having execution of the said residue of the said damages, (*or, “debt and damages,”*) the said *A. B.* afterwards, that is to say, on, &c. (*the teste of the elegit*.) comes before the said lord the king at *Westminster*, (*or, in C. P.* “comes here,”) and according to the form of the statute in such case made and provided, chooses to be delivered to him, all the goods and chattels, &c. (*as in* § 117.) to hold, &c. (*id.*) until — *l.* residue of the damages (*or, “debt and damages”*) aforesaid, shall be thereof fully levied; and he prays the writ, &c. (*id.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, &c. (393, 4.) recovered, &c. (*as in a common elegit, to the words, “whereof,” &c.*) and whereupon by our writ we lately commanded you, that of the goods and chattels, &c. (*reciting the fieri facias, as before, pp. 367, 8.*) And you at that day returned, &c. (*reciting the return, p. 368.*) And afterwards, the said *A. B.* came into our court before us, (*or, in C. P.* “before our justices,” *or, in the Exchequer*, “before the barons of our Exchequer,”) at *Westminster* aforesaid, and chose to be delivered to him, all the goods and chattels of the said *C. D.* in your bailiwick, except his oxen and beasts of the plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick, by a reasonable price and extent; to hold to him and his assigns, according to

(§ 122.)

Entry of award of *fieri facias*, and levy of part, and award of *elegit* for the residue, in *K. B.* or *C. P.*

(§ 123.)

Elegit for the residue, after a *fieri facias*.

Prac. 1019.

CHAP. XLI. the form of the statute in such case made and provided, until — *l.* residue of the damages (or, “debt and damages”) aforesaid, should be thereof fully levied: Therefore we command you, &c. (*as in a common elegit, to the words, “according to the form of the statute aforesaid,”*) until the said — *l.* residue of the damages (or, “debt and damages”) aforesaid, shall be thereof fully levied: And in what manner you shall have executed this our writ, &c. (*as before, § 111. in K. B. § 112. in C. P. or § 113. in the Exchequer.*)

(§ 124.)

The like, for an administrator *cum testamento annexo*, against an heir and tenants, on a judgment in debt against several defendants, revived by *scire facias*, in K. B.

Prac. 1019.

1033, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* deceased, lately in our court before us at *Westminster*, by bill without our writ, and by the consideration and judgment of the same court, recovered against *C. D.* and *E. F.* as well a certain debt of — *l.* as also — *s.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And whereas, for the levying of the debt and damages aforesaid, we lately commanded our late sheriff of —, that he should not omit by reason of any liberty in his county, but enter the same, and of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he should cause to be levied the debt and damages aforesaid; and that he should have the said monies before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his debt and damages aforesaid: And our said late sheriff at that day returned to us, at *Westminster* aforesaid, that of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he had caused to be levied the sum of — *l.* parcel of the debt and damages aforesaid; and that they had no other goods or chattels in his bailiwick, whereof he could cause to be made the residue of the debt and damages aforesaid, or any part thereof: And although judgment be thereupon given, yet execution for — *l.* being the residue of the debt and damages aforesaid, still remains to be made; and as well the said *A. B.* as the said *C. D.* and *E. F.* after the rendering of the judgment aforesaid, respectively died, as by the information of *G. H.* gentleman, administrator of all and singular the goods, chattels and credits, which were of the said *A. B.* at the time of his death, with the will of the said *A. B.* annexed, we were given to understand; wherefore the said *G. H.* administrator as aforesaid, humbly besought us to provide him a proper remedy in this behalf: And we being willing that what was just in that behalf should be done, by our writ, lately commanded our late sheriff of —, that by honest and lawful men of his bailiwick, he should make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee simple, that they should be before us at *Westminster*, on — next after —, to shew if they had or could say any thing for themselves, why the said — *l.* residue, &c. ought not to be made of those lands and tenements, and rendered to the said *G. H.*

as administrator as aforesaid, for the residue of the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem expedient for him so to do; and also that by honest and lawful men of his bailiwick, in like manner he should make known to the heir and tenants of all and singular the lands and tenements, in his bailiwick, whereof the said *E. F.* on the said — day of —, in the — year aforesaid, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee simple, that they should be before us at *Westminster*, on the said — next after —, to shew if they had or could say any thing for themselves, why the said —*l.* residue, &c. ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. H.* as administrator as aforesaid, for the residue of the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem expedient for him; and further to do and receive what our said court before us should then and there consider of the said several and respective heirs and tenants, in this behalf; and that the said late sheriff should have then there the names of those by whom he should so make known to them, and that writ: And our said late sheriff at that day certified and returned to us at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had, by — and —, good and lawful men of his bailiwick, given notice to *J. D.* son and heir of the said *C. D.* in the said writ named, and tenant of the several messuages, cottages, lands and tenements, hereinafter particularly mentioned, to wit, two messuages, (&c.) with the appurtenances, in the parish of — in his bailiwick, in the possession and occupation of —, which were the messuages, cottages, lands and tenements of the said *C. D.* in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and afterwards was seised in fee simple, to be and appear before us at *Westminster*, at the day and place in the said writ specified, to shew in manner therein also mentioned: And our said late sheriff further certified, that there were no other tenants, nor was there any other tenant, of any other lands or tenements in his said bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seised in fee simple, to whom he could make known, as by the said writ he was commanded: And our said late sheriff further certified, that there was no heir, nor were there any tenants, nor was there any tenant, of any lands or tenements in his said bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the said judgment, or ever afterwards, was seised in fee simple, to whom he could make known, as by the said writ he was also commanded: And such proceedings were thereupon had, in our said court before us at *Westminster*, that it was afterwards considered in our same court, that the said *G. H.* should have his execution against the said *J. D.* of the said —*l.* residue of the debt and damages aforesaid, to be levied of the lands and tenements, whereof the said *C. D.* was returned tenant as aforesaid, according to the force form and effect of the

CHAP. XLI. said recovery, by the default of the said *J. D. &c.* And afterwards, the said *G. H.* came into our said court before us, at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, chose to be delivered to him, one moiety of the lands and tenements last aforesaid; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l. residue* of the debt and damages aforesaid, should be thereof fully levied: Therefore we command you, that without delay you cause to be delivered to the said *G. H.* by a reasonable price and extent, one moiety of the lands and tenements aforesaid, with the appurtenances; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l. residue* of the debt and damages aforesaid, shall be thereof fully levied: And in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, under your seal, and the seals of those by whose oath you shall make the said extent and appraisement; and have there then this writ. Witness, &c. (352.)

(§§ 125, 6, 7.) (*Vide ante*, §§ 114. 114. a. 114. b.)

(§ 128.)
Warrant of attorney, to acknowledge satisfaction.

Prac. 1041.

To *E. F. G. H.* and *I. K.* attornies of the court of King's Bench (or, Common Pleas) at *Westminster*, jointly and severally, or to any other attorney of the same court.

Whereas *I A. B.* of —, heretofore, to wit, in or about the term of — last past, obtained final judgment in his majesty's court of King's Bench (or, Common Pleas) at *Westminster*, against *C. D.* of —, for — *l. debt*, and — *l. costs*, (or, "for — *l. damages* and costs,") as by the record thereof may appear: And whereas *I the said A. B.* have received satisfaction for the same: These are therefore to desire and authorize you the attornies above-named, or any one of you, or any other attorney of the same court, to acknowledge and enter satisfaction upon the record of the said judgment; and for your so doing, this shall be your sufficient warrant and discharge in that behalf. In witness whereof, I have hereunto set my hand and seal, the — day of —, in the year of our Lord 18—.

Sealed and delivered, &c. (90.)

A. B.

(§ 129.)
Satisfaction-piece, in K. B.
Prac. 1041.

— term, in the — year of the reign of king *George* the Fourth.
Ellenborough.

— (to wit.) Satisfaction is acknowledged between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case, for — *l. damages* and costs, (or, "of a plea of debt for — *l. debt*, and — *l. damages*," &c.)

Judgment entered of — term, — *Geo. IV.* Roll —.

E. F. attorney.

(§ 130.)
Judge's fiat, for entering satisfaction, in C. P.
Prac. 1041.

B. } Upon reading the warrant of *A. B.* the plaintiff in this action,
v. } and upon hearing the attornies or agents on both sides; I order, that
D. } the clerk of the judgments do enter satisfaction upon the record in this action. Dated the — day of — 18—. (*Judge's name.*)

Afterwards, to wit, on — next after —, (*by bill, or by original in K. B. or C. P. or in the Exchequer, "on —,"*) in — term, in the — year of the reign of the lord the king, before the said lord the king at *Westminster*, comes (*or, in the Common Pleas or Exchequer, "Afterwards, &c. comes here,"*) the said *A. B.* by his attorney aforesaid, (*or, "by E. F. his attorney in this behalf,"*) and acknowledgeth himself to be satisfied by the said *C. D.* of the damages, costs and charges aforesaid, (*or, in debt, "of the debt and damages aforesaid:"*) Therefore let the said *C. D.* be thereof acquitted, &c.

(§ 131.)
Entry of satisfaction.

Prac. 1041.

Afterwards, to wit, on — next after —, in — term, in the — year of the reign of the lord the king, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the said lord the king of *feri facias*, to be directed to the sheriff of —, for levying the said sum of —*l.* being the damages aforesaid, in form aforesaid, assessed; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his said attorney; and the sheriff, to wit, —, sheriff of the said county of —, now here returns, that he has caused to be levied of the goods and chattels of the said *C. D.* the said sum of —*l.* as by the said writ he was commanded: And hereupon the said *A. B.* freely here in court acknowledgeth, that he is fully paid and satisfied all such damages so assessed as aforesaid, together with his costs of suit, and all reasonable charges for executing the said execution: Therefore let the lands and goods of the said *C. D.* be forthwith discharged of the said execution, according to the form of the statute in such case made and provided.

(§ 132.)
The like, after an entry of *feri facias* and return, on the statute 8 & 9 W. III. c. 11. § 8. in *K. B.*
Prac. 1041.

CHAP. XLII.

WRITS of LEVARI FACIAS, and EXTENT, &c. ; and PROCEEDINGS thereon.

(§ 1.)
Levari facias,
 for arrears of
 property tax.
Prac. 1042.

GEORGE the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *E. F.* Esquire, our receiver general for the county of —, of the several rates and duties of assessed taxes, and of the tax upon the profits of property, professions, trades and offices, due and payable to us within the said county, hath by a certain certificate and schedule, certified under his hand, to the barons of our court of Exchequer at *Westminster*, that *C. D.* Esquire, in the schedule hereto annexed named, is justly and truly indebted to us, in the sum of —*l.* due from him, arising from the said rates, duties and taxes, in the said schedule also specified, by virtue of an act of parliament made in the forty eighth year of our reign: which said sum of —*l.* the said *C. D.* hath not as yet paid, or caused to be paid to us, as we are informed; as by the said certificate and schedule, so returned and certified by our said receiver general, and now remaining of record in the custody of our remembrancer, more fully appears: Now we, being desirous to be satisfied the said sum of —*l.* so due to us, with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but that you enter the same, and raise and levy, or cause to be raised and levied, out of the goods and chattels, lands and tenements, of the said *C. D.* mentioned in the said schedule hereto annexed, within your bailiwick, the said sum of —*l.* so charged in the said schedule hereto annexed, together with all such costs and expenses as we have sustained, in and about the raising and levying of the said sum of —*l.*: And we further command, that the monies which you shall so raise and levy by virtue hereof, in manner aforesaid, after deducting the said costs and expenses, you do forthwith pay, or cause to be paid, to our said receiver general to our use; and what you shall so pay to him as aforesaid, and what you shall otherwise do in the execution of these presents, you make distinctly and plainly appear to the barons of our said Exchequer, on the — day of — next, together with this our writ, and the said schedule hereto annexed. Witness Sir *William Alexander* knight, at *Westminster*, the — day of —, in the — year of our reign. By the said act of parliament; by the said certificate; by the *fiat* of Mr. Baron *Garrow*, and by the barons.

Vincent.

To levy the within debt of ———l. with ———l. for costs, besides
sheriff's poundage. _____ Indorsement
thereon.

Property Duty.

A Schedule, containing the name of a person, within the parish of _____, in the county of _____, returned by G. H. the collector, as having made default in the payment of the under-mentioned sum, charged upon him in the said parish, for the half year ended the ——— day of _____, 18—.

Schedule, to be
annexed thereto.

(Here insert the schedule, containing the christian and surname of the defaulter, and amount of the tax in arrear.)

(George the Fourth, &c. (352.) To the sheriff of ———, greeting: Whereas, by judgment of the barons of our Exchequer at *Westminster*, we lately recovered against C. D. the sum of ———l. of good and lawful money of *Great Britain*, for having knowingly received into his custody and possession, divers large quantities of British candles, after the same had been removed from the respective places where the same were made and manufactured, and where the same ought to have been charged with the duties payable in respect thereof, before either the said duties, to which the same were liable, had been charged, or such candles had been lawfully condemned as forfeited; and also the further sum of ———l. for making use of a certain place for making candles, without first making, or having made, with the proper officer or officers appointed for that purpose, at the next office of excise within the compass or limits whereof such place was situated, a true and particular entry in writing of the said place; amounting together to the sum of ———l.; which said sum of ———l. still remains due and unpaid to us, as by the records of our Exchequer appears: Now we, being willing to be satisfied the said sum of ———l. with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and take the said C. D. by his body, wherever he shall be found in your bailiwick, and keep him safely and securely in prison, till we shall be fully satisfied our said debt; and that as well on the oaths of good and lawful men of your bailiwick, as by the oaths and testimony of any other good and lawful men, by whom the truth may be the better known, as by all other lawful means, you diligently inquire what lands and tenements, and of what yearly values, the said C. D. now hath in your bailiwick, and what goods and chattels, and of what sorts and prices, and what debts, credits, specialties and sums of money, the said C. D. or any person or persons to his use, or in trust for him, now hath or have in your said bailiwick; and that all and singular the said goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever the same now are, you diligently appraise and extend, on the oaths of the said good and lawful men, and do take and seize the same into our hands, there to remain until we shall be fully satisfied the said

(§ 2.)
Writ of extent
in chief, for the
king's debt, on
a judgment in
the Exchequer.
Prac. 104b.
1048.

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Prac. 1057.

debt, according to the form of the statute made for the recovery of such our debts: And lest this our command should not be fully executed, we further command and empower you by these presents, to summon before you such persons as you shall think proper, and carefully examine them in the premises; and that you distinctly and openly make appear to the barons of our Exchequer at *Westminster*, on the — day of — next, in what manner you shall have executed this our command; and that you then have there this writ: Provided that what goods and chattels you shall seize into our hands, by virtue hereof, you do not sell or cause to be sold, until we shall otherwise command you. Witness Sir *William Alexander* knight, at *Westminster*, the — day of —, in the — year of our reign. By the remembrance rolls; by the said act of parliament, made in the thirty third year of the reign of the late king *Henry* the Eighth; by warrant of our chief-baron; and by the barons.

Vincent.

(§ 3.)

Affidavit, for immediate extent in chief, against bond debtors to the crown.

Prac. 1046.

In the Exchequer.

A. B. of —, collector of excise, and *I. K.* of —, severally make oath and say; and first this deponent *A. B.* for himself saith, that *C. D. E. F.* and *G. H.* of —, bankers and co-partners, by their bond or writing obligatory, sealed with their seals, bearing date the — day of —, in the year of our Lord 18—, became held and firmly bound to his present majesty, king *George* the Fourth, in the sum of —*l.* of good and lawful money of *Great Britain*, to be paid to our said lord the king, his heirs or executors; with a condition thereunder written, to be void, if the said *C. D. E. F.* and *G. H.* or any or either of them, did and should from time to time well and truly pay, or cause to be paid, unto the honourable the commissioners of his majesty's revenue of excise for the time being, or to their order, at the chief office of excise in *London*, all and every such sum and sums of our said sovereign lord the king's money, which they the said *C. D. E. F.* and *G. H.* or any or either of them, or any other person or persons, by their or any or either of their order and appointment, or on their or any or either of their behalf, should at any time or times thereafter have and receive, of and from *A. B.* collector of our said sovereign lord the king's excise, and other duties under the management of the said commissioners, in and for the collection called — collection, or of and from any other person or persons, by the order or direction of him the said *A. B.* &c. (*as in the condition of the bond:*) And this deponent further saith, that on the — day of —, in the year of our Lord 18—. the said *C. D. E. F.* and *G. H.* or some other person or persons by their or some or one of their order and appointment, or on their behalf, had and received of and from this deponent, the sum of —*l.* of our said sovereign lord the king's money. And this deponent further saith, that the said *C. D. E. F.* and *G. H.* or any or either of them, have not well and truly paid, or caused to be paid, unto the honourable the commissioners of his majesty's revenue of excise for the time being, or to their order, at the chief office of excise, all and every the said sum and sums of our said sovereign lord the king's money,

which they the said *C. D. E. F.* and *G. H.* or any or either of them, or other person or persons by their order or appointment, or on their or any or either of their behalf, had and received as aforesaid, but have wholly omitted and neglected so to do, contrary to the condition of the said writing obligatory. And this deponent further saith, that the said sum of ———*l.* is now wholly due from, and unpaid by them the said *C. D. E. F.* and *G. H.* And this deponent *I. K.* for himself saith, that he this deponent did, on the ——— day of ——— instant, search the secretary of bankrupt's office, in *Southampton Buildings, Chancery Lane*, and did then and there find, that a docket for a commission of bankrupt was on that day struck against *C. D. E. F.* and *G. H.* bankers, partners, dealers and chapmen. And this deponent *A. B.* for himself further saith, that he this deponent verily believes, that *C. D. E. F.* and *G. H.* the persons against whom the said docket had been struck, and *C. D. E. F.* and *G. H.* the persons mentioned in the same bond, are the same persons, and not other or different persons; and that he this deponent verily believes, that unless some method more speedy than the ordinary course of proceeding at law be had against the said *C. D. E. F.* and *G. H.* for the recovery of the said sum of ———*l.* the penalty of the said bond, the same is in danger of being lost.

A. B.

Sworn, &c. (175.)

I. K.

Upon reading this affidavit, let a writ or writs of immediate extent issue against the said *C. D. E. F.* and *G. H.* for the recovery of the within-mentioned sum of ———*l.* the penalty of the within-mentioned bond, with the usual *proviso*. Dated the ——— day of ——— 18—.

H. Goulburn.

George the Fourth, &c. (352.) To the sheriff of ———, greeting: Whereas *C. D. E. F.* and *G. H.* of ———, bankers and copartners, by their bond or writing obligatory, sealed with their seals, bearing date the ——— day of ———, which was in the year of our Lord 18—, became jointly and severally bound to us, in the sum of ———*l.* of good and lawful money of *Great Britain*, payable at a day now past; which said sum of money they have not, nor hath either of them, yet paid, or caused to be paid to us, as we are informed: And we being willing to be satisfied the same, with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and take the said *C. D. E. F.* and *G. H.* by their bodies, wherever they shall be found in your bailiwick, and keep them safely and securely in prison, till we shall be fully satisfied the said debt; and that as well on the oaths of good and lawful men of your bailiwick, as by the oaths and testimony of any other good and lawful men, by whom the truth may be the better known, as by all other lawful means, you diligently inquire, what lands and tenements, and of what yearly values, the said *C. D. E. F.* and *G. H.* or either of them, had in your bailiwick, on the said ——— day of ———, in the year of our Lord 18—, on which day they first became our debtors as aforesaid, or at any time since, and also what lands and tenements, and of what yearly values, they or either of them now have or hath in your bailiwick; and what

(§ 4.)

Fiat, for immediate extent thereon.

Prac. 1046.

(§ 5.)

Writ of immediate extent in chief, against bond debtors to the crown.

Prac. 1046.

1048. 1050.

1053.

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goods and chattels, and of what sorts and prices, and what debts, credits, specialties and sums of money, the said *C. D. E. F.* and *G. H.* or either of them, or any person or persons to their or either of their use, or in trust for them or either of them, now hath or have in your bailiwick: and that all and singular such goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever the same now are, you diligently appraise and extend, &c. (*as before, pp. 407, 8. to the end of the teste.*) By the said bond; by the warrant of the chancellor of our Exchequer, (*or, "of our chief-baron," &c.*); by the said act of parliament, &c. (408.) and by the barons. *Vincent.*

(§ 6.)
Commission, to
find a simple
contract debt
due to the king,
for malt duties,
or money re-
ceived for land-
tax, &c.

Prac. 1047.
1063, 4.

George the Fourth, &c. (352.) To our beloved *E. F.* and *G. H.* gentlemen, greeting: Whereas we are informed, that *C. D.* of —, maltster, is indebted to us in divers sums of money, for the duties on malt, by him the said *C. D.* made; (*or, "in divers sums of money, arising out of our duties upon land tax and houses, within the county of —;"*) no part whereof has been paid by him to our use, (*or, "which sums of money he hath not as yet paid or caused to be paid to us, but hath converted the same to his own use, as it is said:"*) Know ye therefore, that we, trusting to your fidelity and care, have assigned you, and do hereby give you full power and authority, to inquire, as well on the oaths of good and lawful men of the county of —, by whom the truth may be the better known, as by the testimony on oath of any other credible persons, whether the said *C. D.* be now indebted to us, in any and what sum of money, for the duties aforesaid; (*or, "in any and what sum of money, arising out of our duties aforesaid;"*) and therefore we command you, that at such day and place as you shall for that purpose appoint, you diligently attend in and about the premises with effect, and duly take an inquisition thereof, on the oaths of such good and lawful men; and have the same before the barons of our Exchequer at *Westminster*, on the — day of — instant, (*or, next,*) to be then delivered under your seals, with this commission: We have also commanded our sheriff of —, that he cause to come before you, at such day and place as you shall appoint, twelve good and lawful men of his bailiwick, by whom the truth may be the better known; and we empower you to summon before you, such persons as you shall think proper, and carefully examine them in the premises, on their corporal oaths: And we command all mayors, sheriffs, bailiffs, and all other our officers and subjects, that they aid and assist you in the execution thereof, at their perils: In witness whereof, we have caused these our letters to be made patent. Witness Sir *William Alexander* knight, &c. (408.) *Vincent.*

(§ 7.)
Inquisition
thereon.

Prac. 1047.
1063, 4.

— (to wit.) An inquisition indented, taken at the house known by the name of —, at — in the said county, the — day of — in the — year of the reign of our sovereign lord *George the Fourth, &c. (395.)* before *E. F.* and *G. H.* gentlemen, commissioners named in his majesty's commission which is hereunto annexed, on the oath of *I. K.* (&c.) good and lawful men of the said county of —, who being sworn and charged to inquire of and concerning the premises, on their oath say,

that *C. D.* of —, maltster, in the said commission also named, is on the day of taking this inquisition, justly and truly indebted to his majesty, in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18—, and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt houses, one thereof situate at —, and the other thereof situate at —, (*or*, “was on the day of taking, &c. (*as before*,) indebted to our said lord the king, in the sum of —*l.* of lawful money of *Great Britain*, for so much of his majesty’s money, arising by the land tax and duties on houses, within the county of —, by the said *C. D.* heretofore had and received to his majesty’s use: and that the said sum of —*l.* and every part thereof, still remains due and unpaid.”) In witness whereof, as well the said commissioners, as the jurors aforesaid, to this inquisition have set their seals, the day and year, and at the place, first above-written. *E. F.* (&c.)

In the Exchequer.

A. B. of —, maketh oath and saith, that *C. D.* of — in the county of —, maltster, is justly and truly indebted to his present majesty, in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18—, and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt houses, one thereof situate at —, and the other thereof situate at —; (*or*, “for money arising by the land-tax,” &c.) And this deponent further saith, that the said *C. D.* is greatly decayed in his credit and circumstances, and hath stopped payment; and that a docket hath been struck against him the said *C. D.* for the purpose of issuing a commission of bankrupt against him: And lastly, this deponent saith, that the said sum of —*l.* is still due and owing, and that no part thereof hath been paid or satisfied; and he verily believes, that the said debt so due as aforesaid from the said *C. D.* is in the utmost danger of being lost, unless a more speedy course than the ordinary method of proceeding be forthwith had to recover the same.

(§ 8.)

Affidavit thereon, for obtaining an immediate extent in chief.

Prac. 1047.

Or thus, after stating the circumstances under which the debt to the crown arose: “And this deponent further saith, that he this deponent did, on the — day of — instant, search the secretary of bankrupt’s office, in *Southampton buildings, Chancery lane, London*, and did then and there find, that a docket for a commission of bankrupt, was on the — day of — instant, struck against the said *C. D.* by the name and description of, &c. (*as in the docket*,) at the petition of *E. F.* of —: And this deponent verily believes, that unless some method more speedy than the ordinary course of proceeding at law, be had against the said *C. D.* the said sum of —*l.* is in danger of being lost.”

Sworn, &c. (175.)

A. B.

— 18—. Upon reading this affidavit, and also a commission and inquisition taken thereupon, whereby the above named *C. D.* is found indebted to his majesty in the sum of —*l.* let a writ or writs of immediate extent issue against the said *C. D.* for the recovery thereof, with the usual proviso.

(§ 9.)

Fiat, for immediate extent thereon.

Prac. 1048.

W. Garrow.

(§ 10.)
Writ of immediate extent in chief.

Prac. 1048.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas by an inquisition indented, taken at the house known by the name of the sheriff's office, in *Red Lion Square*, in the county of *Middlesex*, this day, before *E. F.* and *G. H.* gentlemen, our commissioners, by virtue of a commission issued out of and under the seal of our court of Exchequer at *Westminster*, to them in that behalf directed, it is found, on the oath of *I. K.* and other good and lawful men of the said county of —, that *C. D.* of —, maltster, is indebted to us in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18—, and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt houses, one thereof situate at —, and the other thereof situate at —; (*or*, “for money arising by the land tax,” &c. ;) which said sum of —*l.* still remains due and unpaid to us, as by the said commission and inquisition taken thereupon, returned and filed in our said Exchequer, more fully appears; Now we being willing to be satisfied the said sum of —*l.* so due to us, with all the speed we can, as is just, do command you, &c. (*as before, pp. 407, 8. concluding as follows :*) By the said commission and inquisition; by warrant of Mr. Baron *Garrom*; by the said act of parliament, &c. (403.); and by the barons.

Vincent.

(§ 11.)
Affidavit for extent in chief, in the second degree.

Prac. 1058, 9.

In the Exchequer.

A. B. of —, maketh oath and saith, that on the — day of — last, a writ of extent, directed to the sheriff of the county of *Middlesex*, was issued out of this honourable court, against *C. D.* of —, for the sum of —*l.* due to his majesty; as in the said writ is particularly mentioned, and by reference thereto will more fully appear. And this deponent further saith, that by an inquisition indented, taken at the sheriff's office, in *Red Lion Square*, in the said county, before the said sheriff, and a jury of his county, by virtue of the said writ of extent, it was found, (amongst other things,) by the said jury of the county of *Middlesex*, that on the — day of —, and on the day of taking the said inquisition, *E. F.* of —, was indebted to the said *C. D.* in the sum of —*l.* for money lent and advanced by the said *C. D.* to the said *E. F.*; and which said debt of —*l.* due and owing from the said *E. F.* the said sheriff of the county of *Middlesex* then and there seized into his majesty's hands; as by the said inquisition will appear. And this deponent further saith, that the said *E. F.* is greatly decayed in his credit and circumstances, and has become insolvent, as this deponent is informed, and verily believes: And further, that the said *E. F.* hath lately offered, and is about to make an assignment of his property and effects, for the benefit of his creditors, as this deponent is also informed, and verily believes: by reason whereof, and of the facts above deposed, the said sum of —*l.* now due and owing from the said *E. F.* to his majesty, in manner aforesaid, is in great danger of being lost, unless a more speedy course than the ordinary method of proceeding be forthwith had and taken, to recover the said debt.

Sworn, &c. (175.)

A. B.

— 18—. Upon reading this affidavit, an extent against *C. D.* and an inquisition taken thereupon, returned by the sheriff of the county of *Middlesex*, whereby the within-named *E. F.* is found indebted to the said *C. D.* in the sum of —*l.* and seized into his majesty's hands; let a writ or writs of extent issue against the said *E. F.* for the recovery thereof, with the usual *proviso*.

W. Garrow.

(§ 12.)
Fiat thereon.
Prac. 1056.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by an inquisition indented, taken at the house known by the name of the sheriff's office, in *Red Lion Square*, in the county of *Middlesex*, this day, before *E. F.* and *G. H.* gentlemen, our commissioners, by virtue of a commission issued out and under the seal of our court of Exchequer at *Westminster*, to them in that behalf directed, it was found, on the oath of *I. K.* and *K. M.* and others, good and lawful men of the county of *Middlesex*, that *C. D.* in the said commission named, died on the — day of — last; and that the said *C. D.* was before and at the time of his death, justly indebted to us, in the sum of —*l.* for so much of our money before that time had and received by him the said *C. D.* for and on our account, arising from duties of excise; which said sum of —*l.* still remains due and unpaid to us; as by the said commission and inquisition, returned and filed as of record in our said court of Exchequer, and there remaining in the custody of our remembrancer, more fully appears. And we being willing to be satisfied the said sum of money, with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and diligently inquire, on the oaths of good and lawful men of your bailiwick, on what day and year, and where the said *C. D.* died; and what goods and chattels, and of what values, and what debts, credits, specialties and sums of money, the said *C. D.* or any other person or persons for his use, or in trust for him, had in your bailiwick, on the day he died, and to whose hands such goods and chattels, debts, credits, specialties and sums of money came, after the death of the said *C. D.* and in whose hands the same now are; and what lands and tenements, and of what yearly values, the said *C. D.* had in your bailiwick, on the day he died, or at any time since, and who was seised of any lands or tenements in your bailiwick, for his use, or in trust for him, on the day he died, or at any time since, and who hath had and received the rents issues and profits of such lands and tenements, from the death of the said *C. D.* to this time, and who now has or receives the same; and that by the oath of the aforesaid good and lawful men, you cause all and singular such goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever the same now are, to be carefully appraised and extended, and to be taken and seized into our hands, that we may retain them, until we be fully satisfied our said debt, according to the form of the statute made and provided for the recovery of such our debts; and that you safely and securely keep what you shall so seize into our hands, until you receive our further command, so that at our will and pleasure you may be

(§ 13.)
Writ of *diem*
clausit extre-
mum.
Prac. 1057, 8.

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XLII.

able to answer us the said goods and chattels, and the said debts, credits, specialties and sums of money, or the price or value thereof, and also the issues and profits of the said lands and tenements; and that you make distinctly and plainly appear to the barons of our Exchequer at *Westminster*, on the — day of — next, what goods and chattels, and of what values, and what lands and tenements, and of what yearly value, and what debts, credits, specialties and sums of money, you shall have taken and seized into our hands, by virtue hereof, and when and on what day you seized the same into our hands; and that you then have there this writ: And we further command and give you full power by these presents, to summon before you, whomsoever it may be proper to examine in the premises, and to examine them carefully of and concerning the same, that this our command may not remain to be further executed: Provided, that what goods and chattels you shall seize into our hands, by virtue hereof, you do not sell, or cause to be sold, till we shall otherwise command you. Witness Sir *William Alexander* knight, &c. (408.) By the said commission and inquisition; by the said act of parliament, &c. (*id.*); by warrant of Mr. Baron *Garrow*; and by the barons. *Vincent.*

The execution of this writ appears by the inquisition annexed.

The answer of —, sheriff.

(§ 14.)
Sheriff's return
thereto.

(§ 15.)
Inquisition.
Prac. 1050, 51.
1057.

— (to wit.) An inquisition indented, taken at — in the county aforesaid, the — day of — 18—, before me — Esquire, sheriff of the county aforesaid, by virtue of the writ of our sovereign lord the king of *diem clausit extremum* to me directed, and to this inquisition annexed, by the oaths of *I. S.* (&c.) good and lawful men of my bailiwick, who being sworn and charged, say that *C. D.* in the said writ named, died at — in the county of —, on the — day of — 18—; and that one *T. S.* of — aforesaid, —, was before and at the time of the death of him the said *C. D.* justly and truly indebted to the said *C. D.* in the sum of —*l.* for so much of his majesty's money, arising from duties of excise, before that time received by the said *T. S.* from, and for and on account of the said *C. D.* he the said *T. S.* knowing the same to be his majesty's money, arising as aforesaid, for which the said *C. D.* was indebted and accountable to his said majesty, and by the said *C. D.* in his life-time permitted to be detained and applied by the said *T. S.* to and for the use of him the said *C. D.* All which said sum of —*l.* remains wholly unaccounted for to his said majesty, and is at the time of taking this inquisition, due and unpaid from the said *C. D.* And the jurors aforesaid likewise say, upon their oath, that the aforesaid *C. D.* had not at the time he died, or any other person for or to his use, before or since his death, any other or more goods, chattels,* debts, credits, specialties or effects, lands or tenements, in my bailiwick, to the knowledge of the said jurors, or either of them, which can be appraised and extended; which said debt of —*l.* I the said sheriff have, on the day of taking this inquisition, seized and taken into the hands of our said lord the king, according to the command of the said writ, and as I am by the said writ

commanded. In witness whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have put our seals, the day, year, and place above-written.

By the same sheriff.

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George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* of —, and *E. F.* of —, by their writing obligatory, sealed with their seals, bearing date, &c. (*date of bond,*) are jointly and severally bound to us, in the sum of —*l.* of good and lawful money of *Great Britain*, payable at a certain day now past ; which sum they have not, nor hath either of them, as yet paid, or caused to be paid to us, as we are informed : And we being willing to be satisfied the said sum of —*l.* now due to us, with all the speed we can, as is just, command you, that you omit not by reason of any liberty, but enter the same, and as well on the oaths of good and lawful men of your bailiwick, or otherwise by the testimony on oath of any other credible persons, by whom the truth may be the better known, as by all other ways means and methods, whereby you may better know or be informed, you diligently inquire what debts, credits, specialties and sums of money, the said *A. B.* or any other person or persons to his use, now hath or have in your said bailiwick ; and that by the oaths of the aforesaid good and lawful men, you cause all and singular the aforesaid debts, credits, specialties and sums of money, in whose hands soever they now are, to be carefully appraised and extended, and do take and seize them into our hands, &c. (*as before, pp. 407, 8. omitting the proviso, and concluding as follows :*) By the writing obligatory aforesaid ; by the aforesaid act of parliament, &c. (408.) ; by warrant ; and by the barons.

Vincent.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of — sheriff.

— (to wit.) An inquisition indented, taken at —, the — day of —, in the — year of the reign of our sovereign lord *George the Fourth, &c. (395.)* before me, sheriff of the county aforesaid, by virtue of the king's writ to me directed, which is hereunto annexed, on the oath of *G. H.* (&c.) good and lawful men of my bailiwick, who being sworn and charged, on their oath say, that *C. D.* of —, made a note in writing, bearing date, &c. (*date of note,*) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay *I. K.* or his order, the sum of —*l.* value received ; which said note was indorsed by the said *I. K.* to *A. B.* in the writ hereunto annexed named ; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said *A. B.* the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid ; which said debt of — *l.* so due as aforesaid, I the said sheriff, on the day of taking this inquisition, have seized and taken into his majesty's hands, according to the command of the said writ : And the jurors aforesaid, on their said oath, further say, that the said *A. B.* on the day of taking this inquisition, hath not any other or more debts, credits, specialties or sums of money, in my said bailiwick, to the knowledge of the said jurors,

(§ 16.)
Writ of extent
pro forma, to
find debts due
to the king's
debtor.
Prac. 1063.

(§ 17.)
Return thereto.

(§ 18.)
Inquisition.
Prac. 1063.

CHAP.
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which can be seized or taken into his said majesty's hands, by virtue of the said writ. In witness whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have set our seals, the day, year, and place first above-mentioned.

By the same sheriff.

(§ 19.)
Affidavit thereon,
for obtaining immediate
extent in aid.

Prac. 1063.

A. B. of —, maketh oath and saith, that he this deponent, together with *E. F.* of —, by their bond or writing obligatory, sealed with their seals, bearing date, &c. (*date of bond*,) jointly and severally became bound to his present majesty, in the sum of —*l.* of good and lawful money of *Great Britain*, to be paid to his said majesty, his heirs or successors, with such condition as is therein particularly mentioned; as by the said bond, now in the custody or power of his majesty's commissioners of excise, (reference being thereunto had,) will more fully appear; and which bond or writing obligatory is standing out and undischarged: And this deponent further saith, that *C. D.* of —, and *I. K.* of —, are respectively justly and truly indebted to this deponent, in the sum of —*l.* as indorsee of a promissory note in writing, for the said sum of —*l.* made and drawn by the said *C. D.* payable to the said *I. K.* or order, at a certain day now past, and by him the said *I. K.* indorsed to this deponent. And this deponent further saith, that the said *C. D.* and *I. K.* respectively are greatly decayed in their credit and circumstances, and have respectively become insolvent; and that the said *C. D.* hath stopped payment of his just debts; and that a docket for a commission of bankrupt hath been struck against the said *I. K.* and the same is expected forthwith to issue, and be proceeded upon; (*or*, "that this deponent hath heard and believes, that a commission of bankrupt has been, or is about to be awarded against the said *C. D.* and that he absconds, or conceals himself, in order to avoid the payment of his just debts;") and therefore the said debt of —*l.* so due to him from the said *C. D.* and *I. K.* respectively, is in the utmost danger of being lost, whereby this deponent will be rendered the less able to pay the debts so due from him to his said majesty, unless a more speedy course than the ordinary mode of proceeding be forthwith had and taken to recover the said debt, so due from the said *C. D.* and *I. K.* respectively to this deponent. And this deponent further saith, that the said debt so due from the said *C. D.* and *I. K.* respectively to this deponent, is a just and true debt, originally due to this deponent *bonâ fide*, and not in trust for any other person; and that the same, or any part thereof, hath not been put in suit in any other court; and that he this deponent hath not received or been paid, nor hath any person for his use, to the knowledge or belief of this deponent, received or been paid the same, or any part thereof.

A. B.

Sworn, &c. (175.)

(§ 20.)
Fiat thereon.
Prac. 1063.

— 18—. Upon reading this affidavit, and an extent and inquisition taken thereupon, whereby the within-named *C. D.* and *I. K.* are found to be respectively indebted to the within-named *A. B.* in the sum of —*l.* let a writ or writs of immediate extent issue against the said *C. D.* and *I. K.* for the recovery thereof, with the usual proviso.

William Alexander.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* of —, and *E. F.* of —, by their writing obligatory, sealed with their seals, bearing date, &c. (*date of bond,*) are jointly and severally bound to us, in the sum of — *l.* of good and lawful money of *Great Britain*, payable at a certain day now past; and which sum they have not, nor hath either of them, as yet paid, or caused to be paid to us, as it is said: And whereas by an inquisition indented, taken at —, the — day of — in the — year of our reign, before — sheriff of our said county of —, by virtue of our writ of extent, under the seal of our Exchequer at *Westminster*, against the said *A. B.* to the said sheriff of — directed, it is found on the oath of *G. H.* and others, good and lawful men of the said sheriff's bailiwick, that *C. D.* of —, made a note in writing, bearing date &c. (*date of note,*) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay *I. K.* or his order, the sum of — *l.* value received; which said note was indorsed by the said *I. K.* to the said *A. B.* in the said writ named; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said *A. B.* the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid; which said debt of — *l.* so due as aforesaid, the said sheriff, on the day of taking the said inquisition, hath seized and taken into our hands, according to the command of the said writ; as by the said writ and return thereof, and the said inquisition thereto annexed, certified into our said Exchequer, and there remaining in custody of our remembrancer, may more fully appear: And we being willing to be satisfied the said sum of — *l.* now due to us, with all the speed we can, as is just, command you, &c. (*as before, p. 407. to the teste, concluding as follows:*) By the writ and inquisition aforesaid; by warrant of the lord chief-baron; by the aforesaid act of parliament, &c. (408); and by the barons.

(§ 21.)
Writ of immediate extent in aid.
Prac. 1059.
1064.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by an inquisition taken before you, the — day of — last, by virtue of our writ of extent, issued out of and under the seal of our Exchequer, against *A. B.* to you directed, it was found that *C. D.* of —, made a note in writing, bearing date, &c. (*as in the inquisition;*) which said debt of — *l.* so due as aforesaid, you have seized and taken into our hands, according to the command of the said writ; as by the said writ of extent, and inquisition thereon taken, returned and filed in our said Exchequer, and there remaining in the custody of our remembrancer, more fully and at large appears: And whereas by our writ of extent, tested the — day of — last, issued out of and under the seal of our Exchequer, to you directed, against the said *C. D.* we have, amongst other things, commanded you, that you should not omit by reason of any liberty, but that you should enter the same, and take the body of the said *C. D.* and him safely and securely keep in our prison, until he should fully satisfy us

(§ 22.)
Supersedas
thereon.
Prac. 1072, &c.

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the said debt of — *l.* ; and that you should likewise extend, take, and seize into our hands, all the lands, tenements, goods and chattels, debts, credits, specialties, sum and sums of money, of him the said *C. D.* which you should find in your bailiwick, there to remain, until we should be fully satisfied our said debt : Nevertheless, for certain reasons the barons of our said Exchequer thereunto especially moving, we command you, that if the said *C. D.* now remains in your custody on that and no other account, you do forthwith release him, and let him go at large ; and if you have, by virtue of the said writ, taken and seized into our hands, any goods or chattels, lands or tenements, debts, credits, specialties, sum or sums of money whatsoever, of him the said *C. D.* you do forthwith re-deliver, or cause the same to be re-delivered to the said *C. D.* or his assigns, by virtue of these presents ; any thing in the said former writ to the contrary notwithstanding. Witness Sir *William Alexander* knight, &c. (408.)

By the Barons.

More common matters, of — term, in the — year of the reign of king *George* the Fourth.

— (to wit.) Be it remembered, that a writ of his present majesty, under the seal of this Exchequer, by consideration of the barons here, issued in these words : *George* the Fourth, &c. (*here copy the writ of immediate extent, and proceed as follows :*) At which day, the said sheriff returned here the said writ, thus indorsed : (*here copy the sheriff's return :*) And the said inquisition annexed thereto, follows in these words : (*here copy the inquisition, and proceed on a new line as follows :*)

And now here, that is to say, on the — day of — in this same term, *E. F.* and *G. H.* assignees of the estate and effects of the said *C. D.* according to the force, form and effect of the statute concerning bankrupts, appear here in court, by *L. M.* their attorney, and pray oyer of the said writ of extent, and the return thereof, and the inquisition taken thereupon, and they are read to them ; and they also pray oyer of the said writ of extent in aid of the said *A. B.* in the said writ of immediate extent mentioned, and of the return thereof, and of the inquisition taken thereupon, and they are also read to them in these words : *George* the Fourth, &c. (*here copy the writ of extent in aid, with the return and inquisition thereon, and proceed as follows :*) Which being read and heard, and by the said *E. F.* and *G. H.* understood, because they are not as yet fully advised to answer in the premises, they pray of the grace of the court a day to be given them, at which, &c. ; and thereupon a day is given them, until the — day of — : At which day, the said *E. F.* and *G. H.* appear here, as before, and pray a further day may be given them ; and thereupon a day is given them, until the — day of — : At which day, the said *E. F.* and *G. H.* appear here, as before, and complain that, by colour of the premises, they are grievously vexed and disquieted ; and that the said goods and chattels, &c. (*as in the inquisition,*) in the said inquisition mentioned, have been taken, and detained in his majesty's hands unjustly : because protesting, that the said writs and the returns thereof, and the inquisitions taken thereupon, are severally

(§ 23.)
Issue, and judgment of *amovens manus*, in the Exchequer, on a writ of extent in aid, defended by assignees of a bankrupt ; with continuances by imparlance, *vicecomes non misit breve*, and *curia advisari vult*.
Prac. 1081. (*h.*)

insufficient in law, and that the said *E. F.* and *G. H.* are not bound by law to give any answer thereto; for plea nevertheless, the said *E. F.* and *G. H.* say, &c. (*here copy the pleadings, beginning each with a new line, and proceed as follows:*) Therefore the court directs, that an inquisition be taken in the premises; and the sheriff of the county of — is commanded, that he omit not, &c. and cause to come here on —, twelve free and lawful men of the body of the said county of —, duly qualified by law, by whom, &c. and who are not, &c. to take cognizance in the premises; the same day is given here, to the said *E. F.* and *G. H.*: At which day, they appear here, as before; and the sheriff doth not return here the said writ, nor do the jurors come; therefore the sheriff is commanded, as before, so as, &c. on —; the same day is given here, to the said *E. F.* and *G. H.*: At which day, they appear here, as before; and the sheriff, to wit, — returneth here the said writ, with a panel of the names of the jurors annexed thereto, which are on the file of writs executed for his said majesty, of — term, in the — year of his reign, in the office of his remembrancer in —; but the jurors do not come: Therefore the sheriff is commanded, that he distrain the said jurors, by their lands, &c. so as, &c. on —, or in the mean time, before the trusty and well beloved Sir *William Alexander* knight, chief baron of his said majesty's Exchequer at *Westminster*, in the said county of *Middlesex*, in the place where the court of the same Exchequer is there commonly held, on — the — day of —, at — of the clock in the forenoon of the same day, if he shall then and there first come; and it is told to the said *E. F.* and *G. H.* that they should expect their day before the said chief baron, at the day and place aforesaid; and that they should be here on —, to hear judgment in the premises, if, and so forth. At which day, the said *E. F.* and *G. H.* appear here, as before; and the said chief baron, before whom, &c. hath sent here the tenor of his record, thus indorsed: Afterwards, &c. (*here copy the postea, and proceed as follows:*) Whereupon the said *E. F.* and *G. H.* pray judgment in the premises; but because the barons here are desirous of consulting among themselves, before they give judgment, a day is given here, to the said *E. F.* and *G. H.* in the same state wherein they now are, until the — day of —, in — term, in the — year of his said majesty's reign: At which day, they appear here, as before, and pray judgment in the premises: And thereupon the said verdict, and other the premises, being considered by the barons here, and mature deliberation being thereupon had, it is adjudged by the said barons, that the hands of his said majesty be removed from the possession of the said goods and chattels, &c. (*as in the inquisition,*) mentioned in the said inquisition, taken upon the said writ of extent as aforesaid; and that the said *E. F.* and *G. H.* be restored to the possession thereof; and that as well the said —, late sheriff of the said county of —, as all others who have been, now are, or hereafter shall be, sheriffs of the said county of —, be discharged in their accounts towards his said majesty, his heirs and succes-

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sors, of the said goods and chattels, (&c.) mentioned in the said inquisition, taken upon the said writ of extent ; and that the said *E. F.* and *G. H.* as to the premises aforesaid, be dismissed the court here, &c.

(§ 24.)
Capias si laicus,
on a statute
merchant.
Prac. 1086, 7.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take the body of *C. D.* of —, if he be a layman, and shall be found in your bailiwick, and him safely keep in our prison, until he shall fully satisfy *A. B.* of — *l.* which the said *C. D.* on the — day of — in the — year of our reign, before — Esquire, then mayor of the city of —, and — gentleman, town clerk of the same city, then being the clerk deputed and assigned to take recognizances of debts in the city aforesaid, according to the form of the statute merchant, acknowledged himself to owe to the said *A. B.* and which he ought to have paid to him on the feast of — then next following, but which he hath not yet paid to him, as it is said: And in what manner you shall have executed this our writ, make known to us (*or, in C. P. “to our justices,” or, in the Exchequer, “to the barons of our Exchequer”*) at *Westminster*, on, &c. (394.); and have there then (*or, by original in K. B. or C. P. or in the Exchequer, “have there”*) this writ. Witness, &c. (354, 5.)

(§ 25.)
Extent thereon.
Prac. 1086, 7.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we commanded you, that you should take the body of *C. D.* of —, if he was a layman, and should be found in your bailiwick, and him safely keep in our prison, until he should fully satisfy *A. B.* of — *l.* which the said *C. D.* on the — day of — in the — year of our reign, before — Esquire, then mayor of the city of —, and — gentleman, town clerk of the same city, then being the clerk deputed and assigned to take recognizances of debts in the city aforesaid, according to the form of the statute merchant, acknowledged himself to owe to the said *A. B.* and which he ought to have paid to him, on the feast of — then next following, but which he had not then paid to him, as it was said; and in what manner you should have executed that our writ, you should make known to us (*or, in C. P. “to our justices,” or, in the Exchequer, “to the barons of our Exchequer”*) at *Westminster*, on, &c. (394.): And you at that day returned to us, (*or, “to our said justices, or barons,”*) at *Westminster*, that the said *C. D.* is a layman, and not found in your bailiwick: Therefore we command you, that without delay you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* and all the lands and tenements in your bailiwick, of which the said *C. D.* on the aforesaid day of acknowledging the debt aforesaid, or ever afterwards, was seized, to whose hands soever they have come, unless they have descended to any one, being within age, by hereditary descent; to hold the goods and chattels aforesaid to the said *A. B.* as his proper goods and chattels, and the lands and tenements aforesaid, as his freehold, to him and his assigns, according to the form of the statute in such case made and provided, until

he shall have levied thereof the debt aforesaid, together with his damages, and all necessary and reasonable costs in labours, suits, delays and expenses; and nevertheless, that you take the body of the said *C. D.* if he shall be found in your bailiwick, and him safely keep in our prison, until he shall fully satisfy the said *A. B.* of the debt aforesaid: And in what manner, &c. (*as in the last.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the moveable goods and chattels of *C. D.* parson of the church of —, in your bailiwick, without delay you cause to be levied — *l.* which the said *C. D.* on —, before, &c. (420.) acknowledged, &c. (*as in the capias si laicus, “to the words, “as it is said”*); and that you cause the said *A. B.* to have the same: And in what manner, &c. (*as before, p. 420.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Because *C. D.* of —, on the — day of — in the — year of our reign, before — of —, mayor of our staple of —, deputed to take recognizances of debts in the same staple, acknowledged himself to owe to *A. B.* of —, — *l.* of lawful money of *Great Britain*, which he ought to have paid to him on the feast of — then next following, but which he hath not yet paid to him, as it is said; we command you, that you take the body of the said *C. D.* if he be a layman, and shall be found in your bailiwick, and safely keep him in our prison, until he shall fully satisfy the said *A. B.* of the debt aforesaid; and that by the oath of honest and lawful men of your bailiwick, by whom the truth of the matter may be the better known, you diligently cause to be extended and appraised, and to be taken into our hands, all the lands and tenements, and chattels of the said *C. D.* in your bailiwick, according to the true value of the same, and cause them to be delivered to the said *A. B.* until he shall be fully satisfied of the debt aforesaid, according to the form of the ordinance thereof made: And in what manner you shall have executed this our command, make known to us in our Chancery, on — next coming, wheresoever, &c. by your letters sealed; and have there this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* of —, on, &c. (*reciting the last writ, to the words, “by your letters sealed,” and then as follows:*) And you have returned to us, that the said *C. D.* was not found in your bailiwick, after our writ was delivered to you, but that you have taken into our hands, all the lands and tenements, and chattels of the said *C. D.* in your said bailiwick, and caused them to be extended and appraised, according to the tenor of our writ aforesaid, to wit, — messuages, which are appraised at — *l.* &c. (*as in the sheriff's return:*) Therefore we command you, that you deliver to the said *A. B.* all the lands and tenements, and chattels aforesaid, by you so taken into our hands, if he will have them, by the extent and appraisement aforesaid; to hold according to the form of the ordinance

(§ 26.)
Licentia facias,
against a clerk.
Prac. 1043.
1087.

(§ 27.)
Extent, on a
statute staple.
Prac. 1087.

(§ 28.)
*Liberate there-
on.*
Prac. 1087.

CHAP. aforesaid, until he shall be satisfied of his debt aforesaid: And in what
 XLII. manner, &c. (*as in the last writ.*)

(§ 29.)
 Extent against
 an heir, upon
 a special judg-
 ment, in K. B.
 or C. P.

Prac. 1089.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, (*or, by original, in K. B. “by our writ,”*) and by the judgment of the same court, (*or, in C. P. “Whereas A. B. lately in our court before our justices at Westminster, by the consideration and judgment of the same court,”*) recovered against *C. D.* son and heir of *E. D.* deceased, a certain debt of —*l.* and also —*l.* which in our said court before us, (*omitting “before us,” in C. P.*) were adjudged to the said *A. B.* for his damages, &c. (356.) to be levied of the lands and tenements which were of the said *E. D.* in fee simple, at the time of his death, in the hands of the said *C. D.*; whereof, &c. (352.): Therefore we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire of what lands and tenements the said *E. D.* was seised in fee simple at the time of his death, and which descended to the said *C. D.* as son and heir of the said *E. D.* by hereditary right, after the death of the said *E. D.* and of which the said *C. D.* on the — day of — in the — year of our reign, on which day the said *A. B.* exhibited his bill, (*or, “sued out his original writ,”*) for the debt aforesaid, against the said *C. D.* was seised in his demesne as of fee, and how much those lands and tenements with the appurtenances are worth by the year, in all issues beyond reprises, according to the true value of the same; and when the said inquisition shall have been by you so made, that without delay you deliver the said lands and tenements with the appurtenances to the said *A. B.* to hold to him and his assigns, as his freehold, until the damages (*or, “debt and damages”*) aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, make appear to us (*or, in C. P. “to our justices”*) at *Westminster*, on, &c. (394.) under your seal, and the seals of those by whose oath you shall make the said extent and appraisement; and have there then (*or, by original, in K. B. or C. P. “have there”*) the names of those by whose oath you shall make the said extent and appraisement, and this writ. Witness, &c. (352.)

(§ 30.)
 The like, an-
 other way, in
 the Exchequer.
 Prac. 1089.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* our debtor, in our court, before the barons of our Exchequer at *Westminster*, in this present — term, (*or, “heretofore, that is to say, in the term of — last past,”*) by the consideration and judgment of the same court, recovered, &c. (*as in the last;*) whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: Nevertheless, execution of the aforesaid judgment yet remains to be made: Therefore we command you, that by the oath of honest and lawful men of your bailiwick; you diligently inquire, what lands and tenements the said *E. D.* had at the time of his death, in your bailiwick,

and whether the said *E. D.* was seised of those lands and tenements in fee simple, and how much those lands and tenements are worth by the year, clear of all reprises: And if by that inquisition you find, that the said *E. D.* died seised in fee simple of any lands or tenements in your bailiwick, then that you cause the said lands and tenements to be delivered to the said *A. B.* without delay, according to the true value thereof; to hold unto the said *A. B.* until the debt and damages aforesaid shall be thereof fully levied: And the inquisition which you shall thereupon make, you cause to be made known to the barons of our Exchequer at *Westminster*, on — next coming, under your seal, and the seals of those by whose oath you shall make the said inquisition; and have you there the names of those by whose oath you shall make that inquisition, and this writ. Witness Sir *William Alexander* knight, &c. (353.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, &c. (422.) recovered against *C. D.* son and heir of *E. D.* deceased, a certain debt of — *l.* and also — *l.* which in our said court before us, (*omitting* “before us,” in the *Common Pleas or Exchequer*,) were adjudged to the said *A. B.* for his damages, &c. (352, 3.); whereof, &c. (*id.*): And afterwards, the said *A. B.* came into our said court before us, (*omitting* “before us,” in the *Common Pleas or Exchequer*,) and prayed to be delivered to him, all the lands and tenements of the said *C. D.* in your county, which descended to the said *C. D.* from the said *E. D.* his father, in fee simple, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the said *A. B.* exhibited his bill (*or*, “sued out his original writ”) against him, for the debt aforesaid, was seised: But because it is unknown, what lands and tenements the said *C. D.* on the aforesaid day of exhibiting the bill (*or*, “suing out the original writ”) aforesaid, had by hereditary descent from the said *E. D.* his father; we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire what lands and tenements the said *C. D.* on the same day of exhibiting the bill (*or*, “suing out the original writ”) aforesaid, had by hereditary descent from the said *E. D.* his father, and how much those lands and tenements are worth by the year, according to the true value of the same, in all issues beyond reprises: and when the said inquisition shall have been by you diligently made, that without delay you deliver to the said *A. B.* the said lands and tenements with the appurtenances, according to the true value of the same; to hold to the said *A. B.* and his assigns, as his freehold, until the damages (*or*, “debt and damages”) aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, make appear, &c. (*as before*, p. 422.)

(§ 31.)

The like, on
a general judg-
ment.

Prac. 1089.

CHAP. XLIII.

WRITS of SCIRE FACIAS ; and PROCEEDINGS thereon.

(§ 1.)
Scire facias for
the king, on a
bond, in the Ex-
chequer.
Prac. 1046.
1091.

GEORGE the Fourth, &c. (352.) To the sheriff of —, greeting:
Whereas *C. D.* of —, and *E. F.* of —, by their bond, sealed with
their seals, made at *Westminster* in the county of *Middlesex*, bearing
date, &c. (*date of bond*;) became jointly and severally bound to us, in
the sum of — *l.* of lawful money of *Great Britain*, payable at a day past;
which sum they or either of them have not yet paid, or caused to be paid
to us, as we are informed: And we being desirous to be satisfied the same
with all the speed we can, as is just, do command you, that you omit not
by reason of any liberty, but enter the same, and by good and lawful men
of your bailiwick, give notice to the said *C. D.* and *E. F.* that they be
and appear before the barons of our Exchequer at *Westminster*, on the
— day of — instant, (*or, next,*) to shew cause, if they can, why
we should not have execution against them, for the said sum of — *l.*;
and that you then return there the names of those persons by whom you
shall have caused such notice to be given, and this writ. Witness Sir
William Alexander knight, at *Westminster*, the — day of —, in the
— year of our reign. By the said bond; and by the barons.

Vincent.

(§ 2.)
Declaration
thereon.
Prac. 1092.

In the Exchequer.

— term, in the — year of the reign of king *George* the
Fourth.

Be it remembered, that a writ of his present majesty, under the seal
of this Exchequer, by the consideration of the barons here, issued in these
words.

George the Fourth, &c. (*Here copy the writ verbatim, and proceed
on a new line as follows:*)

At which day, the said sheriff returned here the said writ, thus in-
dorsed: By virtue of this writ to me directed, I have, by — and
—, good and lawful men of my bailiwick, given notice to the within-
named *C. D.* and *E. F.* that they, and each of them, be and appear
before the barons of the Exchequer of our sovereign lord the king, at the
time and place within-mentioned, as I am within commanded.

The answer of —, sheriff.
— the — day of — 18—.

(§ 3.)
Rule to appear.
Prac. 1092.

Unless *C. D.* and *E. F.* in the writ of *scire facias* hereunto annexed
named, do appear thereto, on or before the general seal day after the pre-
sent — term, let judgment be entered for his majesty by default.

By the Court.

— the — day of — 18 —.

(§ 4.)

Rule to plead.
Prac. 1092.

Unless *C. D.* and *E. F.* in the writ of *scire facias* hereunto annexed named, do plead thereto, on or before — next, let judgment be entered for his majesty by default.

By the Court.

More common matters, of — term, in the — year of the reign of king *George the Fourth*.

(§ 5.)

Issue in *scire facias*, on an extent in aid, against the assignees of a bankrupt.

Prac. 1092.
(*n.*)

— Be it remembered, that a writ of his present majesty, under the seal of this Exchequer, by consideration of the barons here, issued in these words: *George the Fourth, &c.* (352.) To the sheriff of —, greeting: Whereas *A. B.* of —, by his bond, sealed with his seal, bearing date, (&c.) became bound to us, in the sum of —*l.* of lawful money of *Great Britain*, payable at a certain day now past; and which sum he has not yet paid, or caused to be paid, to us, as we are informed: And whereas by an inquisition indented, taken at —, the — day of — in the — year of our reign, before —, sheriff of the said county, by virtue of our writ of extent to him directed, it was found on the oath of *I. K.* and others, good and lawful men of his bailiwick, that on the — day of — then instant, the *teste* of the said writ of extent, and on the day of taking this inquisition, *A. B.* in the said writ named, was and is possessed, as of his own proper chattel or bill of exchange, of and in a certain bill of exchange, bearing date, &c. (*date of bill*), drawn on *L. M.* by *C. D.* (*the bankrupt*), and payable to *N. O.* or order, — after the date thereof, for the sum of —*l.* value received; and which said bill of exchange appears to be accepted by the said *C. D.* and to be indorsed by the said *N. O.*: And it is further found, that the said sum of —*l.* in the said bill of exchange mentioned, on the day of taking the said inquisition, remained wholly due and unpaid; and which said chattel or bill of exchange the said sheriff took and seized into our hands, as by the said extent he was commanded; which said sum of —*l.* still remains due and unpaid to us: And whereas by another inquisition indented, taken at —, the — day of — in the — year of our reign, before you —, sheriff of the said county, by virtue of our writ of extent to you directed, it is found, on the oath of *I. K.* and others, good and lawful men of your bailiwick, that *C. D.* in the said writ named, was, on the — day of — in the — year aforesaid, possessed, as of his own proper goods and chattels, to wit, at — in your bailiwick, of and in divers goods and chattels, to the value of —*l.*; and that afterwards, to wit, on the — day of — in the — year of his said majesty's reign, at — aforesaid, in your said bailiwick, the sum of —*l.* being the money arising by sale of the said goods and chattels, was received by *E. F.* of —, and *G. H.* of —, (*the assignees*;) and which said sum of —*l.* the jurors aforesaid, on their oath aforesaid, say, is on the day of taking this inquisition, in the hands of them the said *E. F.* and *G. H.* to wit, at — aforesaid, in your said bailiwick; which said sum of —*l.* the said sheriff took and seized into our hands; as by the said writs of extent, the returns thereof, and the several in-

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quisitions taken thereupon, returned into our court of Exchequer, and there remaining, in the custody of our remembrancer, appears: Now we being desirous to be satisfied the said sum of —*l.* with all the speed that may be, command you, that you omit not by reason of any liberty, but enter the same, and by good and lawful men of your bailiwick, give notice to the said *E. F.* and *G. H.* that they be and appear before the barons of our Exchequer at *Westminster*, on — the — day of — next, to shew cause, if they can, why we should not have execution against them, for the said sum of —*l.*; and that you then return there the names of those persons by whom such notice shall be given, and this writ. Witness Sir *William Alexander* knight, &c. (424.) By the said several writs of extent, and inquisitions; and by the barons.

Vincent.

And now here, that is to say, on the — day of — in this same term, the said *E. F.* and *G. H.* appear here in court, by — their clerk in court, and pray *oyer* of the said writ of *scire facias*, and the return thereon; and they are read to them: which being read and heard, the said *E. F.* and *G. H.* because they are not as yet fully advised to answer in the premises, pray of the grace of the court, a day to be given them, at which, &c. and which is granted them by the court; and thereupon a day is given to the said *E. F.* and *G. H.* in the same state in which they now are, until —: At which day, the said *E. F.* and *G. H.* appear here, as before, and say that his said majesty ought not to have execution against them, for the said sum of —*l.* in the said writ of *scire facias* mentioned; because protesting, that the said writ of *scire facias*, and the matters therein contained, are wholly insufficient in law; for plea in this behalf, the said *E. F.* and *G. H.* say, &c. (*here copy the pleadings to the end, and conclude as follows:*) Therefore the court directs that an inquisition be taken in the premises.

(§ 6.)
Scire facias, to
repeal letters
patent.

Prac. 1090.
1094, 5.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately by our letters patent, under our great seal of the united kingdom of *Great Britain* and *Ireland*, bearing date at *Westminster*, the — day of — in the — year of our reign, reciting that whereas *C. D.* had by his petition humbly represented unto us, that he had by great study and application, found out and invented, &c. (*here recite so much of the letters patent, as relates to the grant of the benefit of the invention, and the prohibition of other persons to use it, with the provisoes for making void the same, in case it should appear not to be a new invention, &c. or for want of a proper specification; and then proceed as follows:*) as by the said letters patent, inrolled in our said court of Chancery, (amongst other things,) more fully appears: And whereas we are given to understand, that the said pretended invention of the said *C. D.* was not invented and found out by the said *C. D.*; and further, that the said *C. D.* was not, nor is the first and true inventor of the said pretended invention of the said *C. D.* according to the true intent and meaning of the said letters patent, and as therein is mentioned; and further, that the same was before and at the time of making the said letters patent and grant,

used by others, in that part of our said united kingdom of *Great Britain* and *Ireland* called *England*; and further, that one *E. F.* one of our subjects, was at the time of making the said letters patent and grant, the first and true inventor of part of the said supposed invention, pretended to be attained unto by the said *C. D.* being a part thereof, for vesting the sole use and exercise of which in the said *C. D.* his executors, administrators and assigns, the said letters patent were granted as aforesaid; and further, that part of the said supposed invention, &c. (*as above*;) being a part thereof for vesting, &c. (*as above*;) was at the time of making the said letters patent and grant, used by the said *E. F.* to wit, at — in your county; and moreover, that although the said *C. D.* did cause a certain instrument in writing, under his hand and seal, bearing date the — day of —, in the — year aforesaid, to be inrolled in our high court of Chancery at *Westminster* in the county of *Middlesex*, within one calender month next and immediately after the date of our said letters patent, to wit, on the said — day of — in the year aforesaid, thereby pretending, in compliance with the said proviso, particularly to describe and ascertain the nature of his said invention, and in what manner the same was to be performed; as by the said instrument in writing, so inrolled in our said high court of Chancery at *Westminster* aforesaid, appears; yet the said *C. D.* hath not, in and by the said instrument in writing so inrolled as aforesaid, or by any other instrument in writing under his hand and seal, inrolled in our said high court of Chancery, within one calendar month next and immediately after the date of our said letters patent, particularly described and ascertained the nature of his said invention, and in what manner the same is to be performed, but hath wholly neglected so to do, contrary to the form and effect of the said letters patent, and of the said last-mentioned proviso in that behalf: By means of which said several premises, the said letters patent, so as aforesaid granted to the said *C. D.* are and ought to be void, and of no force or effect in law: And we being willing that what is just should be done in the premises, command you, that by good and lawful men of your bailiwick, you give notice to the said *C. D.* that he be before us in our Chancery, in — now next ensuing, wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said letters patent so granted to him as aforesaid, and the inrolment of the same, for the reasons aforesaid, ought not to be cancelled, vacated and disallowed, and those letters patent restored into our said Chancery, there to be cancelled; and further to do and receive those things which our said Chancery shall consider in this behalf; and have there the names of those by whom you shall so give him notice, and this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

(§ 7.)
*Præcipe for
 scire facias.
 against bail.*
Prac. 1100.

Middlesex. Scire facias for A. B. against E. F. and G. H. bail of C. D. for —l. damages and costs, (or, “ —l. debt, and —l. damages and costs,”) returnable on —.

I. K. attorney.

— 18—.

(§ 8.)
*Scire facias
 against bail, on
 a recognizance
 by bill, in K. B.*
Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of Middlesex, greeting:
Whereas E. F. of —, and G. H. of —, heretofore, to wit, in — term, in the — year of our reign, came into our court before us at Westminster, in their proper persons; and became pledges and bail, and each of them became pledge and bail, for C. D. that if the said C. D. should happen to be convicted, at the suit of A. B. in a certain plea of trespass on the case upon promises, to the damage of the said A. B. of —l. (or, in debt, “ in a certain plea of debt for —l.”) then lately commenced and depending in the same court, by and at the suit of the said A. B. against the said C. D. then the said E. F. and G. H. consented, and each of them consented, that all such damages (or, in debt, “ that as well the said debt, as all such damages ”) as should be adjudged to the said A. B. in that behalf, should be made of their and each of their lands and chattels, and levied to the use of the said A. B.; if it should happen that the said C. D. should not pay and satisfy the said damages, (or, in debt, “ the said debt and damages,”) or render himself to the prison of the marshal of our Marshalsea before us, on that occasion; as by the record of the said recognizance, still remaining in our said court before us at Westminster aforesaid, more fully appears: And although the said A. B. afterwards, to wit, in — term, in the — year of our reign, in our said court before us at Westminster aforesaid, by bill without our writ, and by the judgment of the same court, recovered in the said plea, against the said C. D. —l. for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said C. D. to the said A. B. (or, if in debt, “ the said debt, and also —l. for his damages which he had sustained, as well by means of the detaining of the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said C. D. is convicted, as by the record and proceedings thereof, still remaining in our said court before us at Westminster aforesaid, more fully appears; yet the said C. D. hath not paid or satisfied the said damages, (or, “ debt and damages,”) or any part thereof, to the said A. B. or rendered himself to the prison of the marshal of our Marshalsea before us, on that occasion, according to the form and effect of the said recognizance; and as well the said recognizance, as the said judgment, still remain in full force and effect, in no wise set aside, reversed, paid off or satisfied; as we have received information from the said A. B. in our said court before us: Wherefore the said A. B. hath humbly besought us to provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said E. F. and G. H. that they be before us at Westminster, on — next after —, to shew if they*

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have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have execution against the said *E. F.* and *G. H.* for the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recognizance, *if it shall seem expedient for him* †; and further to do and receive what our said court before us shall then and there consider of them in this behalf: and have there then the names of those by whom you shall so make known to them, and this writ. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of —, in the — year of our reign.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —, and *G. H.* of —, heretofore, to wit, in — term, in the — year of our reign, came into our court before us at *Westminster*, in their proper persons; and became pledges and manucaptors, and each of them by himself became pledge and manucaptor, for *C. D.* late of —, and then and there acknowledged themselves to owe, and each of them did acknowledge himself to owe to *A. B.* the sum of —*l.* and did submit and grant, for themselves and their heirs, and each of them did submit and grant for himself and his heirs, that the said sum of —*l.* should and might be made of their and each of their lands and chattels, and levied to and for the use of the said *A. B.* in case the said *C. D.* should happen to be convicted, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (*or*, in debt, “in a certain plea of debt for —*l.*”) then lately depending in the same court, by and at the suit of the said *A. B.* against the said *C. D.* and if the said *C. D.* should not pay and satisfy unto the said *A. B.* all such damages (*or*, *if in debt*, “as well the said debt or sum of —*l.* as all such damages”) as should be adjudged to the said *A. B.* in the plea aforesaid, or render himself to the prison of the marshal of our Marshalsea before us, on that occasion; as by the record of the said recognizance, still remaining in our said court before us at *Westminster* aforesaid, fully appears*: And although the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us at *Westminster* aforesaid, by our writ, and by the consideration and judgment of the same court, recovered, &c. (*as in the last, to the mandatory part of the writ, which is as follows* :) that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us, on —, wheresoever we shall then be in *England*, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or

(§ 9.)

The like, on a
recognizance
by *original*, in
K. B.

Prac. 1100.

† It may admit of doubt, whether the above words refer to the *plaintiff*, or the *defendant*; or, in other words, whether they mean that the defendant should have notice given him, to shew cause, why the *plaintiff* ought not to have execution against him, for the damages, or debt and damages, recovered, “if he, the *plaintiff*, shall think fit, or it shall seem expedient for him, to have such execution,” or “if the *defendant* shall think fit, or it shall seem expedient for him, to appear and shew cause against it:” and as the former seems to be the natural and obvious meaning of the words, it has been adopted in the following forms.

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himself, that is to say, the said *E. F.* why the said sum of —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and the said *G. H.* why the said sum of —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and levied to and for the use of the said *A. B.* according to the force form and effect of the said recognizance, if it shall seem expedient for him; and further to do and receive what our said court before us shall consider of them in this behalf; and have there the names of those by whom you shall so make known to them, and this writ. Witness *Charles Lord Tenterden, &c. (as in the last.)* *Kenyon,*

(§ 9. a.)
The like, against
an administratrix
of one of the
bail.

Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting :
Whereas *E. F.* of — in your county —, heretofore, to wit, in — term, in the — year of our reign, came into our court before us at *Westminster*, in his proper person; and then and there became pledge and manucaptor for *C. D.* late of —, and then and there acknowledged himself to owe to *A. B.* the sum of —*l.* and did submit and grant for himself and his heirs, that the said sum of —*l.* should and might be made of his lands and chattels, &c. (*as in the last, to the asterisk.*) And although the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us at *Westminster* aforesaid, by our writ, and by the consideration and judgment of the same court, recovered &c. (*as in last but one, to the asterisk in p. 428. and then as follows :*) And the said *E. F.* is since dead intestate; and administration of all and singular the goods, chattels and credits, which were of the said *E. F.* at the time of his death, hath been in due form of law committed and granted to *G. H.* as we have received information from the said *A. B.* in our said court before us: Wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *G. H.* as administratrix as aforesaid, that she be before us, on —, wheresoever we shall then be in *England*, to shew if she has or knows of any thing to say for herself, why the said sum of —*l.* by the said *E. F.* in his life-time in form aforesaid acknowledged, should not be made and levied of the goods and chattels which were of the said *E. F.* at the time of his death, in her the said *G. H.*'s hands to be administered, according to the force form and effect of the said recognizance, if it shall seem expedient for the said *A. B.* so to do; and further to do and receive, &c. (*as in last.*)

(§ 10.)
The like, in
C. P.

Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting :
Whereas *E. F.* of —, and *G. H.* of —, lately in our court, to wit, in — term, in the — year of our reign, came before Sir *William Draper Best* knight, and his companions, then our justices of the bench at *Westminster*, in their proper persons; and acknowledged themselves, and each of them did acknowledge himself, to owe to *A. B.* the sum of —*l.*; which said sum of —*l.* the said *E. F.* and *G. H.* for themselves and their heirs consented and granted, and each of them for himself and

his heirs did consent and grant, should be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied; upon this condition, that if judgment should happen to be given, in our said court of the bench aforesaid, for the said *A. B.* against *C. D.* late of —, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or, in debt, “in a certain plea of debt upon demand for —*l.*”) by the said *A. B.* in our said court prosecuted, then the said *C. D.* should satisfy all such damages (or, in debt, “the debt aforesaid, and all such damages”) as should be adjudged to the said *A. B.* against the said *C. D.* in our same court, in the plea aforesaid, or should render his body on that occasion to the prison of the *Fleet*; as by the record of the said recognizance, remaining in our same court of the bench aforesaid, at *Westminster* aforesaid, more fully appears: And although the said *A. B.* afterwards, to wit, in that same — term, (or “in — term, in the — year aforesaid,”) in our said court, before the said Sir *William Draper Best* knight, and his companions, then our justices of the bench aforesaid, at *Westminster* aforesaid, by the consideration and judgment of the same court, recovered in the said plea, against the said *C. D.* —*l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, by reason of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or, in debt, “his said debt, and also —*l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, by reason of the detaining of the said debt;”) whereof the said *C. D.* is convicted, as by the record and proceedings thereof, now remaining in our same court at *Westminster* aforesaid, manifestly appears: Nevertheless the said *C. D.* hath not satisfied the damages aforesaid, (or, in debt, “the debt and damages aforesaid,”) to the said *A. B.* nor rendered his body, on the occasion aforesaid, to the said prison of the *Fleet*, according to the form and effect of the recognizance aforesaid; as on the information of the said *A. B.* in our said court, we are given to understand: And because we are willing that those things which in our same court are rightly done and recognized, should be duly carried into execution, we command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before our justices at *Westminster*, on —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, that is to say, the said *E. F.* why the said —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, and the said *G. H.* why the said —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, according to the form and effect of the said recognizance, if it shall seem expedient for him; and have you there the names of those by whom you shall so make known to them, and this writ. Witness Sir *William Draper Best* knight, at *Westminster*, the — day of — in the — year of our reign.

(§ 11.)
The like, for
administrator
of surviving
plaintiff, in
C. P.

Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of Middlesex, greeting: Whereas E. F. of —, and G. H. of —, lately in our court, &c. (as in the last, to “manifestly appears,” stating the recognizance to have been entered into, and judgment recovered, in a joint action, and then as follows:)

And whereupon it was afterwards considered in our said court, before our justices aforesaid, that I. K. administrator of all and singular the goods, chattels and credits, which were of the said A. B. deceased, at the time of his death, who died intestate, and who survived the said I. M. should have his execution against the said C. D. of the damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said C. D.; as also appears of record: Nevertheless the said C. D. hath not satisfied the damages aforesaid, (or, in debt, “the debt and damages aforesaid,”) to the said A. B. and I. M. or either of them, in the life-time of the said I. M. or to the said A. B. after the death of the said I. M. or to the said I. K. administrator as aforesaid, since the death of the said A. B. nor rendered his body, on the occasion aforesaid, to the said prison of the Fleet, according to the form and effect of the recognizance aforesaid; as on the information of the said I. K. administrator as aforesaid, in our said court, we are given to understand: And because we are willing, &c. (as in the last.)

(§ 12.)
The like, after
execution
awarded, on a
former scire
facias, in K. B.

Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of Middlesex, greeting: Whereas E. F. of —, and G. H. of —, heretofore, to wit, in — term, &c. (as in § 9. to the end of the judgment, and then as follows:)

— yet the said C. D. did not pay or satisfy the said damages, or any part thereof, to the said A. B. or render himself to the prison of the marshal of our Marshalsea before us on that occasion, according to the force form and effect of the said recognizance; whereupon it was afterwards considered, in our said court before us, that the said A. B. should have his execution against the said E. F. and G. H. that is to say, against the said E. F. of the said sum of —l. by him in form aforesaid acknowledged, and against the said G. H. of the said sum of —l. by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, by the default of them the said E. F. and G. H. as also appears to us of record: And now, on the behalf of the said A. B. in our said court before us, we have been informed, that although judgment be thereupon given, and execution awarded in form aforesaid, yet execution of the said several sums of —l. and —l. still remains to be made to him; wherefore the said A. B. hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, &c. (as in § 9. to shew why the sums should not be made, &c. “according to the force form and effect of the said recognizance, and award of execution, &c.”)

(§ 13.)
The like, on a
recognizance
taken before a

George the Fourth, &c. (352.) To the sheriff of Middlesex, greeting: Whereas E. F. of —, and G. H. of —, heretofore, to wit, on the — day of —, in — term, in the — year of our reign, came

in their proper persons, before —, a commissioner duly empowered to take and receive all and every such recognizance or recognizances of bail or bails, in and for the county of —, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in our court before us, according to the form of the statute in such case made and provided; and then and there, before the said —, so being such commissioner as aforesaid, became pledges, &c. (*stating the recognizance, as before, § 8 or 9*); which said recognizance afterwards, to wit, on the — day of —, in the — year of our reign, was duly transmitted by the said —, so being such commissioner as aforesaid, to the honourable —, then and still being one of the justices of our said court before us, at his chambers in *Serjeants' Inn, Chancery Lane, London*, and by him the said justice was afterwards, to wit, in — term, in the — year of our reign, produced in our said court before us at *Westminster* aforesaid, and then and there recorded in the same court; as by the record thereof, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: And although, &c. (*as before, § 8 or 9.*)

commissioner
in the country,
in K. B.*
Prac. 1100.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —, and *G. H.* of —, heretofore, to wit, on the — day of —, in the — year of our reign, at — in the county of —, came in their proper persons, before —, then and there being a commissioner, duly appointed and empowered by our justices of the bench at *Westminster* in the county of *Middlesex*, to take and receive all and every such recognizance or recognizances of bail or bails, in and for the said county of —, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in our said court of the bench at *Westminster* aforesaid, according to the form of the statute in such case made and provided; and then and there, before the said —, so being such commissioner as aforesaid, acknowledged themselves to owe, &c. (*as in the entry of the recognizance, ante, p. 103.*); which said recognizance afterwards, to wit, on — next after —, in — term, in the — year of our reign, was duly transmitted by the said —, so being such commissioner as aforesaid, to the right honourable Sir *William Draper Best* knight, then and still being chief-justice (*or, "to the honourable —, then and still being one of the justices"*) of our said court of the bench aforesaid, at his chambers, situate in *Serjeants' Inn, Chancery Lane, London*, and was by him the said chief-justice, (*or, "justice,"*) on — next after —, in that same term, brought into our said court of the bench at *Westminster* aforesaid, to be inrolled and recorded; and thereupon the said recognizance, at the request of the said *A. B.* was then and there duly inrolled

(§ 14.)
The like, in
C. P.
Prac. 1100.

* This writ is now disused; it not being usual to enter the recognizance on the roll specially, when taken before a commissioner, in the King's Bench; though it is otherwise in the Common Pleas. See 2 Lutw. 1252.

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(§ 15.)
Scire facias
 against bail, in
 the Exchequer
 of Pleas.
Prac. 1100. (g.)

and recorded in the said court here; as by the record of the said recognizance, still remaining in our said court of the bench aforesaid, at *Westminster* aforesaid, manifestly appears: And although, &c. (*as before*, p. 431.)

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *A. B.* our debtor, in our court, before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (*or*, “in the — year of our reign,”) by the consideration and judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, by reason of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted, as by inspecting, &c. (422.) more fully appears: And although the said judgment hath been given, yet execution of the said damages still remains to be made to the said *A. B.*: And whereas *E. F.* of —, and *G. H.* of —, heretofore, that is to say, of the term of — last past, in our said court before the barons of our said Exchequer at *Westminster*, personally came, and became pledges and manucaptors, and each of them by himself became pledge and manucaptor, for the said *C. D.* that if it should happen that the said *C. D.* should be convicted in the said plea, then the said manucaptors granted, and each of them by himself granted, that all such damages as should be adjudged to the said *A. B.* in that behalf, should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* if it should happen that the said *C. D.* should not pay the said damages to the said *A. B.* or render himself to our prison of the *Fleet* upon that occasion: yet the said *C. D.* hath not paid the said damages to the said *A. B.* nor rendered himself to our prison of the *Fleet* upon that occasion; as by the information of the said *A. B.* in our said court, we have been given to understand: And we being willing that those things which in our said court are rightly done and acknowledged, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before the barons of our said Exchequer at *Westminster*, on — next coming, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have execution against them, for the damages aforesaid, according to the force, form and effect of the said recognizance, if it shall seem expedient for him: And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer at *Westminster*, at the day aforesaid; and have there the names of those by whom you shall so make known to them, and this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 16.)
Scire facias
 against bail, in
 the palace
 court of *West-*
minster, on the
 removal of a
 cause under
 20*l.* by *habeas*

George the Fourth, &c. (352.) To the bearers of the virges of our household, the officers and ministers of our court of our palace of *Westminster*, and every of them, greeting: Whereas at our court of our palace of *Westminster*, held in *Great Scotland Yard*, *Westminster*, in the county of *Middlesex*, within the jurisdiction of the said court, on — the — day of —, in the — year of our reign, before —, then steward of the

king's household, —, marshal of the said household, and —, steward of the said court, then judges of the court aforesaid, by virtue of the letters patent of *Charles the Second*, late king of *England*, &c. bearing date at *Westminster*, the *fourth* day of *October*, in the 16th year of his reign, came one *A. B.* not being of our household, in his proper person, and then and there, in the said court, according to the liberties and privileges of the same court, levied his plaint against *C. D.* of the said household likewise not being, in a plea of trespass on the case, to his damage of —*l.* And whereas after levying the said plaint, and whilst the same was depending in our said court of our palace of *Westminster*, that is to say, at our court of our palace of *Westminster*, held before the aforesaid judges of the said court, at *Westminster* aforesaid, in the said county of *Middlesex*, the — day of —, in the — year of our reign, came the said *C. D.* in his own proper person, and brought into our said court of our palace of *Westminster*, our writ of *habeas corpus cum causâ*, issuing out of our court before us at *Westminster*, directed to the judges of our said court of our palace of *Westminster*, and commanding them, that they should have the body of the said *C. D.* detained (as it was said,) in our prison, under the custody of the said judges, under safe and secure conduct, together with the day and cause of taking and detaining the said *C. D.* before *Charles Lord Tennerden*, our chief justice assigned to hold pleas in our said court before us, at his chambers in *Serjeants' Inn*, *Chancery Lane*, *London*, immediately after the receipt of that writ; and further to do and receive all and singular those things which the said chief-justice should then and there consider in that behalf: And thereupon at the same court of our palace of *Westminster*, before the aforesaid judges thereof, according to the form of the statute in such case made and provided, the said *C. D.* and two other persons, to wit, *E. F.* of —, and *G. H.* of —, who were then and there allowed of by the said court, as sureties for the said *C. D.* in that behalf, came in their own proper persons; and the said *C. D. E. F.* and *G. H.* then and there, in the said court of our palace of *Westminster*, so holden as last aforesaid, became pledges and manucaptors, and each of them by himself became pledge and manucaptor, for the said *C. D.* upon the aforesaid writ of *habeas corpus cum causâ*, in manner and to the tenor and effect following, to wit, that in case judgment should pass against him the said *C. D.* in our said court before us, in the said plea of the aforesaid plaint, then they the said pledges and manucaptors did consent and agree, and each of them did consent and agree, with the said *A. B.* to satisfy and pay unto him the said *A. B.* all such damages, costs and charges, as should on that occasion be adjudged to him; and unless they should so do, then the said *C. D. E. F.* and *G. H.* and each and every of them, did grant, consent and agree, that all such damages, costs and charges, should be made and levied of their and each of their lands and chattels, to the use and behoof of the said *A. B.*; as by the record of the said recognizance, in our said court of our palace of *Westminster*, at *Great Scotland Yard* aforesaid, in the county of *Middlesex* aforesaid,

corpus, into the
King's Bench.
Prac. 1100. (g.)

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more fully appears: And whereas after the said writ of *habeas corpus cum causâ* was so brought into our said court of our palace of *Westminster* as aforesaid, the said plea of the aforesaid plaint was, by virtue of and under the aforesaid writ of *habeas corpus cum causâ*, in due manner, and according to the exigency of the said writ, removed into our said court before us at *Westminster*; and being so removed, the said *A. B.* did afterwards, to wit, in — term, in the — year of our reign, implead the said *C. D.* in our said court before us, at *Westminster* in the county of *Middlesex*, in the plea aforesaid, for the non-performance of certain promises and undertakings of him the said *C. D.*: And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us, recovered against the said *C. D.* — *l.* which in and by our said court before us, were then and there adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the not performing of the aforesaid promises and undertakings of the said *C. D.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before us at *Westminster*, manifestly appears: Yet the said *C. D. E. F.* and *G. H.* have not, nor have nor hath any or either of them, satisfied and paid unto the said *A. B.* his damages costs and charges, so adjudged to him as aforesaid, or any part thereof, as we have been given to understand by the said *A. B.* And because we are willing that those things which in our said court of our palace of *Westminster*, as well as in our said court before us at *Westminster*, are rightly done, should be duly executed, we command you, and every of you, that by honest and lawful men within the jurisdiction of our said court of our palace of *Westminster* aforesaid, you, or one of you, do, within the jurisdiction of the said court, summon or make known to them the said *C. D. E. F.* and *G. H.* that they be before the judges of our said court of our palace of *Westminster*, on — the — day of — next following, to be held at *Great Scotland Yard, Westminster*, in the said county of *Middlesex*, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves, or either of them, why the said *A. B.* ought not to have execution against them, for the said damages costs and charges, so to him adjudged as aforesaid, according to the form and effect of the said recognizance, if it shall seem expedient for him; and that you, or one of you, have there then the names of those by whom you shall so summon or make known to them the said *C. D. E. F.* and *G. H.* and this writ. Witness Sir *Charles Montolieu Lamb* baronet, knight marshal of our household, at *Westminster* aforesaid, the — day of —, in the — year of our reign.

H. F. Campbell.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —, and *G. H.* of —, on — the — day of —, in the year of our Lord 18—, came before the honourable —, one of our justices of the bench, at his chambers in *Serjeants' Inn, Chancery*

(§ 17.)
The like, on a
recognizance
taken before a
judge, on error
from the Com-

Lane, London, and acknowledged, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of — *l.* to be levied of their lands and chattels, and of the lands and chattels of each of them, to the use of the said *A. B.*; which said recognizance, in form aforesaid taken, our said justice afterwards, to wit, on — the — day of —, in — term, in the — year of our reign, delivered with his own proper hands into our said court of the bench, to wit, at *Westminster* in the county of *Middlesex*, to be enrolled, and the same was then and there, before the right honourable Sir *William Draper Best* knight, and his brethren, then our justices of the said bench, enrolled of record in the same court; as by the record thereof, remaining in our said court, it manifestly appears: which said — *l.* and — *l.* the said *E. F.* and *G. H.* have not, nor hath either of them, paid to the said *A. B.* as we are informed by the said *A. B.* And because we are willing that those things which in our said court are rightly done and acknowledged, should be duly carried into execution; we command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before our justices at *Westminster*, on —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, that is to say, the said *E. F.* why the said — *l.* by him in form aforesaid acknowledged, should not be levied of his lands and chattels, and the said *G. H.* why the said — *l.* by him in form aforesaid acknowledged, should not be levied of his lands and chattels, and rendered to the said *A. B.* according to the form of the said recognizance, if it shall seem expedient for him; and have there the names of those by whom you shall so make known to them, and this writ. Witness Sir *William Draper Best* knight, at *Westminster*, the — day of — in the — year of our reign.

mon Pleas to
the King's
Bench.

Prac. 1101.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —, and *G. H.* of —, on the — day of —, in the — year of our reign, came in their proper persons, before the honourable —, one of our justices assigned to hold pleas in our court before us, at his chambers in *Serjeants' Inn, Chancery Lane, London*, and according to the form of the statute in such case made and provided, acknowledged themselves, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of — *l.* of lawful money of *Great Britain*, to be paid to the said *A. B.* his executors or assigns; and unless they should so do, the said *E. F.* and *G. H.* did grant and agree, and each of them for himself did grant and agree, that the said sum of — *l.* should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.*; upon condition nevertheless, reciting that the said *A. B.* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, had recovered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said

(§ 18.)

The like, on
error from the
King's Bench
to the Exche-
quer chamber.

Prac. 1101.

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C. D. had been convicted, as appeared of record in our said court before us at *Westminster*; and also reciting that the said *C. D.* had brought a writ of error upon the judgment aforesaid, returnable before our justices of the Common Bench, and barons of our Exchequer of the degree of the coif, in our Exchequer chamber at *Westminster*, on — the — day of —, in the — year aforesaid; if therefore the said *C. D.* should prosecute the said writ of error with effect, and should also pay and satisfy to the said *A. B.* if the said judgment should be affirmed, or the said writ of error be discontinued in his default, or he should be nonsuit therein, as well the damages costs and charges aforesaid, adjudged upon the said judgment, as also all such costs charges and damages, as should be awarded to the said *A. B.* for the delay of execution of the judgment aforesaid, by pretext of prosecuting the said writ of error, then that recognizance was to be void, or else to be and remain in full force and virtue: Which said recognizance the said justice afterwards, to wit, on the — day of —, in the — year aforesaid, brought into our said court before us to be enrolled, and the same was then and there enrolled in our said court before us, as of — term, in the — year aforesaid; as by the record thereof, now remaining in our said court before us at *Westminster* aforesaid, manifestly appears: And such proceedings were had on the said writ of error, in our court of Exchequer chamber aforesaid, before our justices of the Common Bench and barons of our Exchequer aforesaid, that afterwards, to wit, on — the — day of —, in — term, in the — year of our reign, the said writ of error was duly non-prossed; (or “the judgment aforesaid was in all things affirmed”;) and — *l.* were then and there, in and by the said court of Exchequer chamber, adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages, costs and charges, which he had sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; as by the record and proceedings thereof, remitted by our said justices and barons, from the said court of Exchequer chamber, into our said court before us at *Westminster* aforesaid, according to the form of the statute in such case made and provided, and now remaining in our said court before us at *Westminster* aforesaid, likewise appears to us of record: Nevertheless the said *C. D.* hath not yet paid to the said *A. B.* the said damages costs and charges, so as aforesaid adjudged upon the said first-mentioned judgment, or the damages costs and charges aforesaid, so awarded as aforesaid, or any part thereof; as on the information of the said *A. B.* in our said court before us, we have been given to understand: Wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, do command you, that by good and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us at *Westminster*, on — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not

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to have his execution against them, and each of them, of the said sum of ——. by them jointly and severally acknowledged in form aforesaid, according to the force form and effect of the said recognizance, if it shall seem expedient for him; and further to do and receive what our said court before us shall then and there consider of them in this behalf; and have there then the names of those by whom you shall so make known to them, and this writ. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of —, in the — year of our reign.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —, and *G. H.* of —, on the — day of —, in — term, in the — year of our reign, came into our court before us at *Westminster*, in their proper persons, and according to the form of the statute in such case made and provided, acknowledged, &c. (*as in the last, omitting the enrolment of the recognizance.*)

(§ 19.)
The like, where the recognizance was taken in court.

Prac. 1101.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: Whereas, &c. (*as in the first writ, inserting these words, after the command to the sheriff, "as before we have commanded you," and altering the teste and return.*)

(§ 20.)
Alias scire facias, against bail.

Prac. 1124.

In C. P. the *alias* must be tested on the *appearance* day of the return of the first *scire facias*.

As yet of — term, in the — year of the reign of king *George the Fourth*. Witness *Charles Lord Tenterden*.

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George the Fourth, &c. (copy the scire facias to the end, and then proceed as follows:)* At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, now here returns, that by — and —, honest and lawful men of his bailiwick, he has given notice to the said *E. F.* and *G. H.* severally to appear before our said lord the king, at the day and place in the said writ mentioned, to shew cause as by the said writ they are required, and as the said sheriff is therein commanded; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come, but make default: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (or, "debt and damages") aforesaid, according to the force form and effect of the said recognizance, by the default of them the said *E. F.* and *G. H.* &c.

(§ 21.)
Entry of proceedings, and judgment by default, in *scire facias* against bail, upon the return of *scire facias* in K. B.

Prac. 1126.

Judgment signed, &c. (186.)

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George the Fourth, &c. (copy the first scire facias to the end, and proceed as follows:)* At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; (and, *in actions by original*, offered himself against the said *E. F.* and *G. H.* in the plea aforesaid:) and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, thereupon returned to our said lord

(§ 22.)
The like, upon two *nihil*s returned, and judgment by bill, in K. B.

Prac. 1126.

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the king, that the said *E. F.* and *G. H.* had not, nor had either of them, any thing in the bailiwick of the said sheriff, where or by which he could give them or either of them notice, as by the said writ he was commanded, nor were they the said *E. F.* and *G. H.* nor was either of them, found in the same; and the said *E. F.* and *G. H.* came not, nor did either of them come: Therefore, as before, it was commanded to the sheriff, that by honest and lawful men of his bailiwick, he should make known to the said *E. F.* and *G. H.* that they should be before our said lord the king at *Westminster*, on — next after —, (*the return of the alias; or, by original, on —, wheresoever, &c.*) to shew in form aforesaid, if, &c. and further, &c.; the same day was given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; (and, in actions by original, offers himself against the said *E. F.* and *G. H.* in the plea aforesaid:) and the said sheriff of *Middlesex*, as before, returns that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in the bailiwick of the said sheriff, where or by which he can give them or either of them notice, as by the said last-mentioned writ he is commanded, nor are they the said *E. F.* and *G. H.* nor is either of them, found in the same; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come, but make default: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (*or, "debt and damages"*) aforesaid, according to the force form and effect of the said recognizance, by the default of them the said *E. F.* and *G. H.* &c.

Judgment
signed, &c.
(186.)

Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, by the default of the said *E. F.* and *G. H.* &c.

(§ 23.)
Judgment by
original, in
K. B.

Prac. 1126.

As yet of — term, &c. (439.)

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George the Fourth, &c.* (*here copy the declaration in scire facias to the end, and proceed on a new line as follows:*)

(§ 24.)
The like, on de-
fault, after ap-
pearance.

Prac. 1126.

And the said *E. F.* and *G. H.* pray a day to imparl to the said declaration of the said *A. B.* and it is granted to them, &c.; and upon this a day is given to the parties aforesaid, before our lord the king, until —, wheresoever our said lord the king shall then be in *England*, that is to say, for the said *E. F.* and *G. H.* to imparl to the declaration aforesaid, and then to answer the same: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid: And the said *E. F.* and *G. H.* (although on that day solemnly demanded,) come not, nor doth either of them come, nor do they, or either of them, shew or say any thing, why the said *A. B.* should not have execution

against them, and each of them respectively, for the aforesaid sum of —l. according to the force form and effect of the aforesaid recognizance; whereby the said *A. B.* remains therein undefended against the said *E. F.* and *G. H.*: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* respectively, that is to say, against the said *E. F.* of the said sum of —l. by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —l. by him in form aforesaid acknowledged, according to the force form and effect of the aforesaid recognizance, by the default of them the said *E. F.* and *G. H.* &c.

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Judgment
signed, &c.
(186.)

Middlesex, to wit. The sheriff was commanded, whereas *E. F.* of —, and *G. H.* of —, lately in the court of the lord the king here, to wit, in — term, in the — year of the reign of the said lord the king, came before Sir *William Draper Best* knight, and his companions, then his majesty's justices, &c. (*reciting the writ of scire facias, to the following words*, "as on the information of the said *A. B.* the said lord the king had been given to understand;") and because, &c. that by honest, &c. he should make known to the said *E. F.* and *G. H.* that they should be here at this day, to wit, on —, to shew if any thing, &c. that is to say, the said *E. F.* why the said —l. by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, and the said *G. H.* why the said —l. by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, according to the form and effect of the said recognizance, if, &c. And now here at this day, comes the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, now here returns, that by — and —, honest and lawful men of his bailiwick, he hath made known to the said *E. F.* and *G. H.* that they be here, on the day in the said writ mentioned, to shew cause as by the said writ they are required, and as the said sheriff is therein commanded: And hereupon the said *A. B.* prays execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said —l. by him in form aforesaid acknowledged, and against the said *G. H.* of the said —l. by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, to be adjudged to him, &c.: Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said —l. by him in form aforesaid acknowledged, and against the said *G. H.* of the said —l. by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, by the default of the said *E. F.* and *G. H.* &c.

(§ 25.)

The like, upon
the return of
scire feci, in
C. P.

Prac. 1126.

Judgment
signed, &c.
(186.)

Middlesex, to wit. The sheriff was commanded, &c. (*as in the last, to the end of the recital of the first writ of scire facias, and then as follows* :) And now here at this day, comes the said *A. B.* by *I. K.* his at-

(§ 26.)

The like, on
two *scire facias*
returned *nihil*,

in the same
term, in C. P.
Prac. 1126.

torney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c.: Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here on —, to shew in form aforesaid, if, &c.: At which day, comes here the said *A. B.* by his said attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come; and the said sheriff, as before, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c. And thereupon the said *A. B.* prays execution, &c. (*as in the last.*)

(§ 27.)
The like, when
the writs are of
different terms.
Prac. 1126, 7.

In this case, the first writ of *scire facias* is entered on a roll of the term in which it was returnable, with the sheriff's return thereto, and the award of the second writ; and in the following term, the proceedings are entered over again, with the sheriff's return to the second writ, and the prayer and award of execution, on a roll of that term, beginning with an *alias prout patet*, as follows:

Middlesex, to wit. Elsewhere, as it appeareth of the term of — last past, on the — roll, it is thus contained.

(§ 28.)
The like, in
C. P. on a re-
cognizance of
bail taken be-
fore the chief
justice, on error
from the Com-
mon Pleas to
the King's
Bench.
Prac. 1126, 7.

Middlesex, to wit. The sheriff was commanded, whereas *E. F.* of —, and *G. H.* of —, on the — day of — in the year of our lord 18—, came before the right honourable Sir *William Draper Best* knight, chief justice of the Bench, at his chambers in *Serjeants' Inn, Chancery Lane, London*, and acknowledged, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of —*l.* to be levied of their lands and chattels, and of the lands and chattels of each of them, to the use of the said *A. B.*; which said recognizance, in form aforesaid taken, the said chief justice afterwards, to wit, on, (&c.) in — term, in the — year of the reign of the lord the now king, delivered with his own proper hands into his majesty's court of the Bench here, to wit, at *Westminster* in the county of *Middlesex*, to be enrolled, and the same was then and there, before the said Sir *William Draper Best* knight and his brethren, then his said majesty's justices of the Bench, enrolled of record in the same court; as by the record thereof, remaining in his said majesty's said court, it manifestly appeared; which said —*l.* and —*l.* the said *E. F.* and *G. H.* had not, nor had either of them, paid to the said *A. B.* as his said majesty was informed by the said *A. B.*; and because, &c. that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here, on —, to shew if they had or knew, or if either of them had or knew, of any thing to say for themselves or himself, that is to say, the said *E. F.* why the said —*l.* by him in form aforesaid acknowledged, should not be levied of his lands and chattels, and the said *G. H.* why the said —*l.*

by him in form aforesaid acknowledged, should not be levied of his lands and chattels, and rendered to the said *A. B.* according to the form of the said recognizance, if, &c. And now, at this day, the said *A. B.* cometh here, by — his attorney, and offereth himself on the fourth day against the said *E. F.* and *G. H.* in the plea aforesaid; and the said *E. F.* and *G. H.* although solemnly called, come not, nor doth either of them come; and the said sheriff, to wit, — and —, sheriff of the said county, now here returneth, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in his bailiwick, whereby he can give them or either of them notice, as by the said writ he is commanded, nor are they nor is either of them found in the same: Therefore, as before, the sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here in —, to shew in form aforesaid, if, &c. At which day, the said *A. B.* cometh here by his attorney aforesaid, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and the said *E. F.* and *G. H.* although solemnly called, come not, nor doth either of them come; and the said sheriff, as before, now here returneth, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in his bailiwick, whereby he can give them or either of them notice, as by the said last-mentioned writ he is commanded, nor are they nor is either of them found in the same: And hereupon the said *A. B.* prays execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged, according to the form of the said recognizance, to be adjudged to him, &c. Therefore it is considered, &c. (*as before*, § 24.)

And the said *E. F.* and *G. H.* say that they cannot deny the action of the said *A. B.* nor but that execution ought to be adjudged to him against them the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of — *l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, together with his costs and charges by him about his suit in this behalf laid out; and hereupon the said *A. B.* prays judgment, and that execution may be adjudged to him in form aforesaid: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of — *l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance: It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *E. F.* and *G. H.* — *l.* for his costs and charges by him laid out about his suit in this behalf, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; and the said *E. F.* and *G. H.* in mercy, &c.

Entry of *scire facias* (or, "of first and second *scire facias*") against bail, with award of execution.

(§ 29.)
The like, on a
cognovit by the
bail.
Prac. 1126, 7.

Judgment
signed, &c.
(186.)

Mercy.

(§ 30.)
Entry on

docket roll, in
C. P.

Prac. 1126.

(§ 31.)

Note of ap-
pearance, in
K. B.

Prac. 1127.

(§ 32.)

Præcipe for
appearance,
in C. P.

Prac. 1127.

(§ 33.)

Declaration in
scire facias
against bail, up-
on the return
of *scire feci*, in
K. B.

Prac. 1127.

(§ 34.)

The like, upon
two *nilis* re-
turned, in K. B.

Prac. 1127.

Middlesex. A. B. plaintiff, } *Roll.*
E. F. and G. H. bail of *C. D.* defendant. } —.

A. B. against *E. F.* and another, bail of *C. D.*

I appear for the bail, upon the writ of *scire facias* issued in this
cause. Your's, &c.

To Mr. *I. K.* *L. M.* attorney.

— to wit. Appearance for *E. F.* and *G. H.* bail of *C. D.* at the
suit of *A. B.* to a *scire facias*, (or, "*alias scire facias*,") returnable on
—, *L. M.* attorney.

— 18—.

— term, in the — year of the reign of king *George* the
Fourth.

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*,
his writ close in these words, that is to say: *George* the Fourth, &c.
(*copy the scire facias, and proceed as before, p. 439. to the end of the she-
riff's return, and conclude as follows:*) And the said *E. F.* and *G. H.* being
solemnly called, came by *L. M.* their attorney; and hereupon the said
A. B. prays that execution may be adjudged to him, against the said *E. F.*
and *G. H.* of the damages (or, "*debt and damages*") aforesaid, according
to the force form and effect of the said recognizance, &c.

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*,
his writ close in these words, that is to say: *George* the Fourth, &c.
(*copy the first scire facias to the end, and proceed as follows:*) At which
day, before our said lord the king at *Westminster*, came the said *A. B.* in
his proper person; and the sheriff, to wit, —, sheriff of *Middlesex*
aforesaid, thereupon returned to our said lord the king, that the said
E. F. and *G. H.* had not, nor had either of them, any thing in his bail-
iwick, where or by which he could give them or either of them notice,
as by the said writ he was commanded, nor were they the said *E. F.* and
G. H. nor was either of them, found in the same; and the said *E. F.*
and *G. H.* came not, nor did either of them come: Therefore, as before,
it was commanded to the sheriff, that by honest and lawful men of his
bailiwick, he should make known to the said *E. F.* and *G. H.* that they
should be before our said lord the king at *Westminster*, on — next after
—, to shew in form aforesaid, if, &c. and further, &c.; the same day
was given to the said *A. B.* there, &c. At which day, before our said
lord the king at *Westminster*, comes the said *A. B.* in his proper person;
and the said sheriff of *Middlesex*, as before, returns, that the said *E. F.*
and *G. H.* have not, nor hath either of them, any thing in his bailiwick,
whereby he can give them or either of them notice, as by the said last-
mentioned writ he is commanded, nor are they the said *E. F.* and *G. H.*
nor is either of them, found in the same; and the said *E. F.* and *G. H.*
being solemnly demanded, come by *L. M.* their attorney: And hereupon
the said *A. B.* prays that execution may be adjudged to him against the
said *E. F.* and *G. H.* of the damages (or, "*debt and damages*") aforesaid,
according to the force form and effect of the said recognizance, &c.

(*After the second return of nihil, proceed as follows:*) And the said *E. F.* and *G. H.* being solemnly demanded, come by *L. M.* their attorney; and hereupon the said *A. B.* says, that he will not further prosecute his said writ of *scire facias* against the said *E. F.* in that behalf; and he prays that execution may be adjudged to him against the said *G. H.* of the damages (*or*, “debt and damages”) aforesaid, (*or, by original in K. B. or C. P.* “that execution may be adjudged to him against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged,”) according to the force form and effect of the said recognizance, &c.

In the Common Pleas.

— term, in the — year of the reign of king *George* the Fourth.

Middlesex, to wit. The sheriff was commanded, &c. (*as before*, p. 441. *to the end of the recital of the writ, and then as follows:*)

At which day, comes here the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* of the plea aforesaid; and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, now here returns, that he hath made known to the said *E. F.* and *G. H.* that they be here, on the day in the said writ mentioned, to shew as by the said writ they are commanded; and the said *E. F.* and *G. H.* on the same day, being solemnly demanded, come by *L. M.* their attorney: And hereupon the said *A. B.* prays execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, to be adjudged to him, &c.

In the Common Pleas.

— term, &c. (*as in last.*)

Middlesex, to wit. The sheriff was commanded, &c. (*reciting the first writ of scire facias to the end, as before*, p. 441. *and then as follows:*) At which day, comes here the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* of the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, —, sheriff of *Middlesex* aforesaid, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c.: Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here, on —, to shew in form aforesaid, if, &c.: At which day, comes here the said *A. B.* by his said attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* of the plea aforesaid; and the said sheriff, as before, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c.; and the said *E. F.* and *G. H.* on the same day, being solemnly demanded, come by *L. M.* their attorney: And hereupon the said *A. B.* prays execution, &c. (*as in the last.*)

(§ 35.)

The like, with a *nolle prosequi* as to one of the bail, and prayer of execution against the other.

Prac. 1127.

(§ 36.)

The like, upon the return of *scire feci*, in *C. P.*

Prac. 1128.

(§ 37.)

The like, upon two *nihilis* returned, in *C. P.*

Prac. 1129.

(§ 38.)

Issue in *scire facias* against bail, in K. B.
Prac. 1131.

— term, &c. (444.)

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George the Fourth, &c. (here copy the writ, and declaration in scire facias.)*

And the said *E. F.* and *G. H.* by *L. M.* their attorney, come and say that the said *A. B.* ought not to have execution, &c. (*here copy the pleadings, beginning each with a new line, and conclude with the award of the venire facias, or by giving a day to produce the record, on an issue of null tiel record, in the common form.*)

(§ 39.)

Entry of issue, and award of execution, &c. after verdict, in K. B.

Prac. 1131.

As yet of — term, &c. (439.)

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, to wit: *George the Fourth, &c. (here copy the issue, to the end of the award of the venire facias, and proceed as follows:)* Afterwards the process thereof is continued, &c. (*as before, pp. 332, 3. concluding as follows:*) Therefore it is considered, that the said *A. B.* have his execution against the said *F. F.* and *G. H.* of the damages (*or, "debt and damages"*) aforesaid, according to the force form and effect of the said recognizance, &c.: It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *E. F.* and *G. H.* — *l.* for his costs and charges by him laid out about his suit in this behalf, on occasion of the said *E. F.* and *G. H.* having pleaded to the said writ of *scire facias*, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; and the said *E. F.* and *G. H.* in mercy, &c.

Judgment signed, &c. (186.)

Mercy.

(§ 40.)

Fieri facias against bail to the action, in the King's Bench by bill, after default on *scire facias*.

Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (*or, if in debt, "a certain debt of — l. which A. B. lately in our court before us at Westminster, recovered against the said C. D. and also — l. which in our same court before us, were adjudged to the said A. B. for his damages which he had sustained, as well on occasion of the detaining of the said debt,"*) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered in our same court before us, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (*or, "debt and damages"*) aforesaid, according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged in our said court before us, for the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, by the default of the said *E. F.* and *G. H.* as like-

wise appears to us of record: And have that money before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages (*or*, “debt and damages”) aforesaid; and have there then this writ. Witness *Charles Lord Tenterden*, &c. (439.)

(*As before, to the end of the award of execution, without stating it to be by default, and then as follows:*) and also — *l.* which in our same court before us, were adjudged to the said *A. B.* for his damages costs and charges which he hath been put unto, on occasion of the said *E. F.* and *G. H.* having pleaded to our writ of *scire facias*, sued out against them, at the suit of the said *A. B.* in that behalf; whereof the said *E. F.* and *G. H.* are convicted, as also appears to us of record: And have the said monies before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages, (*or*, “debt and damages,”) costs and charges aforesaid; and have there then this writ. Witness, &c. (439.)

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(§ 41.)
The like, after
plea to *scire*
facias.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in his bailiwick, he should cause to be made — *l.* (*or*, “a certain debt of — *l.*”) &c. (*reciting the fieri facias to the end:*) And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the damages (*or*, “debt and damages”) aforesaid, or any part thereof; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages (*or*, “debt and damages”) aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said *E. F.* and *G. H.* in your bailiwick, you cause to be made the said — *l.* (*or*, “the said debt of — *l.* and the said — *l.*”) the damages aforesaid; and that you have that money before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages (*or*, “debt and damages”) aforesaid; and have there then this writ. Witness, &c. (439.)

(§ 42.)
Testatum fieri
facias, against
bail to the ac-
tion, in the
King's Bench,
by bill.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* in his bailiwick, he should cause to be made — *l.* and of the goods and chattels of *G. H.* in his bailiwick, he should cause to be made — *l.*; and that he should have the same monies before us, on a certain day now past, wheresoever we should then be in *England*, to render to *A. B.* according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* as bail of and for *C. D.* before *I. K.* gentleman, our commissioner lawfully authorized and appointed to take bails in our court before us, in and for your county, according to the form of the statute in that case made and provided; as by the record of the said recognizance, which was afterwards in due manner transmitted to the right honourable *Charles Lord Tenterden*, chief justice (*or*, “to the honourable —,

(§ 43.)
The like, against
bail by *original*,
taken before a
commissioner,
in K. B. where
the bail appeared,
but did not
plead to the
scire facias.
Prac. 1132.

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then and still being one of the justices") of our court before us, at his chambers situate in *Serjeants' Inn, Chancery Lane, London*, and was by him the said chief justice (or, "justice") produced and recorded in the same court, and is now there remaining, appears to us of record: And whereupon it was considered in our said court before us at *Westminster*, that the said *A. B.* should have his execution against the said *E. F.* and *G. H.* respectively, that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect of the aforesaid recognizance, by the default of them the said *E. F.* and *G. H.* as likewise appears to us of record: And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the said several sums of —*l.* and —*l.* or either of them, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in your bailiwick, whereof the said several sums of —*l.* and —*l.* and each of them, and every part thereof, may be fully made: Therefore we command you, that of the goods and chattels of the said *E. F.* and *G. H.* in your bailiwick, you cause to be made the said several sums of —*l.* and —*l.* in form aforesaid acknowledged, so that you may have the said monies before us, in —, wheresoever we shall then be in *England*, to be rendered to the said *A. B.* according to the form and effect of the recognizance aforesaid; and have there this writ. Witness, &c. (439.)

George the Fourth, &c. (352.) To the right reverend father in God —, by divine permission, lord bishop of *Durham*, or to his chancellor there, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* in his bailiwick, he should cause to be made —*l.* and of the goods and chattels of *G. H.* in his bailiwick, he should cause to be made —*l.* and that he should have the said monies before us, on a certain day now past, wheresoever he should then be in *England*, to be rendered to *A. B.* according to the force, form and effect of a certain recognizance, &c. (*as in the last, to the end of the award of execution against the bail.*) And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the said several sums of —*l.* and —*l.* or either of them, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in our said county palatine of *Durham*, whereof the said several sums of —*l.* and —*l.* and each of them, and every part thereof, may be fully made: Therefore we command you, that by our writ, under the seal of our said county palatine of *Durham*, to be duly made, and directed to the sheriff of the same county palatine, you command the said sheriff, that of the goods and chattels of

(§ 44.)

The like, to a
county palatine,
after default of
appearance.

Prac. 1132.

the said *E. F.* and *G. H.* in his bailiwick, he cause to be made the said several sums of —*l.* and —*l.* in form aforesaid acknowledged, so that you may have the said monies before us on —, wheresoever we shall then be in *England*, to be rendered to the said *A. B.* according to the form and effect of the recognizance aforesaid; and have there this writ. Witness, &c. (439.)

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George the Fourth, &c. (352.) To our chamberlain of our county palatine of *Chester*, or his deputy, greeting: Whereas by our writ we lately commanded our chancellor of our county palatine of *Lancaster*, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, he should command the said sheriff, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in his bailiwick, he should cause to be made —*l.* (or, “a certain debt of —*l.*”) &c. (*reciting the former testatum fieri facias, to the end:*) And our said chancellor of our said county palatine of *Lancaster* at that day returned to us, that by another writ, under the seal of our same county palatine duly made, and directed to the sheriff of the same county, he had commanded the said sheriff, as in the said first-mentioned writ he was commanded; which said sheriff had thereupon returned, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or, “debt and damages”) aforesaid, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in our said county palatine of *Chester*, whereof the damages (or, “debt and damages”) aforesaid, and every part thereof, may be fully made: Therefore we command you, that by our writ, under the seal of our said county palatine of *Chester* to be duly made, and directed to the sheriff of the same county palatine, you command the said sheriff, that of the goods and chattels of the said *E. F.* and *G. H.* in his bailiwick, he cause to be made the damages (or, “debt and damages”) aforesaid, so that you may have that money before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages (or, “debt and damages”) aforesaid; and have there then this writ. Witness, &c. (439.)

(§ 45.)
The like, from one county palatine to another, after a former *testatum*, by *bill*, in K. B.

Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* of —, one of the bail of *C. D.* in your bailiwick, you cause to be made —*l.* and of the goods and chattels of *G. H.* of —, another of the bail of the said *C. D.* in your bailiwick, you cause to be made —*l.* which the said *E. F.* and *G. H.* heretofore, to wit, in — term, in the — year of our reign, in our court, before *Sir William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, severally acknowledged to owe to *A. B.* to be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of

(§ 46.)
Fieri facias against bail to the action, in the Common Pleas.

Prac. 1132.

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—*l.* (or, *in debt*, “in a certain plea of debt on demand for —*l.*”) against the said *C. D.* in our same court of the Bench prosecuted; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, in our said court before our justices remaining, manifestly appears: And whereupon it is considered in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the said several sums of —*l.* and —*l.* by them in form aforesaid acknowledged, by the default of them the said *E. F.* and *G. H.*; whereof the said *E. F.* and *G. H.* are convicted: And have those monies before our justices at *Westminster*, on —, to be rendered to the said *A. B.* according to the form and effect of the said recognizance; and have there this writ. Witness Sir William Draper Best knight, &c. (437.)

(§ 47.)
The like, upon
an award of
execution, re-
moved into the
King's Bench,
by writ of error.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* of —, one of the bail of *C. D.* in your bailiwick, you cause to be made —*l.* and of the goods and chattels of *G. H.* of —, another of the bail of the said *C. D.* in your bailiwick, you cause to be made —*l.*; and have the said monies before us, on —, wheresoever, (&c.) to be rendered to *A. B.* according to the form and effect of the adjudication of execution upon a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* in our court, before Sir William Draper Best knight and his companions, our justices of the Bench at *Westminster*; as by the record and proceedings of the adjudication of execution thereupon, which by virtue of our writ for correcting error, we lately caused to be brought into our court before us, appears to us of record: And whereupon, in our said court before us at *Westminster*, it is considered, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.*, of the said several sums of —*l.* and —*l.* by them in form aforesaid respectively acknowledged, to be levied of their respective lands and chattels, by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, &c. (439.)

(§ 48.)
The like, in the
Exchequer.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *E. F.* and *G. H.* in your bailiwick, you cause to be made —*l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against *C. D.* for his damages which he had sustained, by reason of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* whereof the said *C. D.* is convicted; and whereupon it is considered in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* for the damages aforesaid, according to the form of their recognizance taken in our said court, by the default of them the said *E. F.* and *G. H.* as by inspecting the rolls of our said Exchequer, appears to us: And have that money before the barons of our said Exchequer at *Westminster*, on — next coming, to be then and there paid to the said *A. B.*

or his attorney in this behalf; and have there this writ, Witness Sir *William Alexander* knight, &c. (353.)

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George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* of —, and *G. H.* of —, the bail of *C. D.* in your bailiwick, you cause to be made —*l.*; and have that money before us, on —, wheresoever we shall then be in *England*, to be rendered to *A. B.* according to the form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our court, before Sir *William Draper Best* knight, our chief justice of the Bench, at his chambers situate in *Serjeants' Inn, Chancery Lane, London*; as by the record thereof, which we lately for certain reasons caused to be brought into our court before us at *Westminster*, manifestly appears: And whereupon it is considered, in our same court before us at *Westminster* aforesaid, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* for the said —*l.* by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, &c. (439.)

(§ 49.)

The like, against bail in error, on a recognizance taken before the chief justice of the Common Pleas, and removed into the King's Bench.

Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* of —, one of the bail of *C. D.* in his bailiwick, he should cause to be made —*l.* and of the goods and chattels of *G. H.* of —, another of the bail of the said *C. D.* in his bailiwick, he should cause to be made —*l.*; and that he should have the said monies before our justices at *Westminster*, at a certain day now past, to be rendered to *A. B.* according to the form and effect of the adjudication of execution upon a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our court of the Bench, before the right honourable Sir *William Draper Best* knight, our chief justice of the Bench, at his chambers situate in *Serjeants' Inn, Chancery Lane, London*: Which said recognizance, in form aforesaid taken, our said chief justice afterwards delivered with his own proper hands, into our said court of the Bench aforesaid, to wit, at *Westminster* in the county of *Middlesex* aforesaid, to be enrolled, and the same was accordingly, before the said Sir *William Draper Best* and his companions, then our justices of the said Bench, enrolled of record in the same court; as by the record thereof, remaining in our said court, manifestly appears: And whereupon it is considered, in our same court of the Bench aforesaid, that the said *A. B.* have his execution thereupon against the said *E. F.* for the said —*l.* and against the said *G. H.* for the said —*l.* by the default of them the said *E. F.* and *G. H.* as also appears of record in our said court: And our said sheriff of *Middlesex* at that day returned to our said justices at *Westminster* aforesaid, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made

(§ 50.)

Testatum fieri facius in a similar case, when the recognizance is not removed.

Prac. 1132.

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the aforesaid several sums of money, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court of the Bench, that the said *E. F.* and *G. H.* have sufficient goods and chattels in your bailiwick, whereof you may cause to be made the aforesaid several sums of money, and every part thereof: Therefore we command you, that of the goods and chattels of the said *E. F.* in your bailiwick, you cause to be made the said —*l.* and of the goods and chattels of the said *G. H.* in your bailiwick, you cause to be made the said —*l.*; and that you have the said monies before our said justices at *Westminster*, in —, to be rendered to the said *A. B.* according to the form and effect of the said adjudication of execution, upon the said recognizance; and have there this writ. Witness, &c. (437.)

(§ 51.)
Fieri facias
against bail in
error, on a
recognizance
taken in the
King's Bench.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in your bailiwick, you cause to be made —*l.*; and have that money before us at *Westminster*, on — next after —, to be rendered to *A. B.* according to the form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our said court before us at *Westminster* aforesaid: And whereupon it is considered, in our said court before us, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* by the default of them the said *E. F.* and *G. H.* as appears to us of record; and have there this writ. Witness, &c. (439.)

(§ 52.)
Capias ad satis-
faciendum
against bail to
the action, in
the King
Bench by *bill*,
after default on
scire facias.

Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that you take *E. F.* and *G. H.* the bail of *C. D.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to satisfy *A. B.* —*l.* which the said *A. B.* lately in our court before us, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or, if in debt, “a certain debt of —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* and also —*l.* which in our same court before us, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detaining of the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered, in our same court before us, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (or, “debt and damages”) aforesaid, according to the force, form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged in our said court before us, for the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, by the default of the said *E. F.* and *G. H.* as also appears to us of record; and have there then this writ. Witness *Charles Lord Tenterden, &c.* (439.)

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *E. F.* and *G. H.* where-soever they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before the barons of our Exchequer at *Westminster*, on — next coming, to satisfy *A. B.* our debtor, of — *l.* which the said *A. B.* lately in our court, before the barons of our said Exchequer at *Westminster*, recovered against *C. D.* for his damages which he had sustained, by reason of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted: And whereupon it is considered, in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* according to the form of their recognizance taken in our said court, by the default of them the said *E. F.* and *G. H.* as by inspecting the rolls of our said Exchequer, appears to us; and have there this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 53.)
The like, in the
Exchequer.
Prac. 1132.

(*As in the two last, to the end of the award of execution, without stating it to be by default, and then as follows:*) and also to satisfy the said *A. B.* — *l.* for his damages, costs and charges which he hath been put unto, on occasion of the said *E. F.* and *G. H.* having pleaded to our writ of *scire facias*, sued out against them, at the suit of the said *A. B.* in that behalf; whereof the said *E. F.* and *G. H.* are convicted, as also appears to us of record; (*or, in the Exchequer, "as by inspecting the rolls of our said Exchequer, also appears to us;"*) and have there then (*or, in the Exchequer, "have there"*) this writ. Witness, &c. (439. in *K. B.* or 353. in the *Exchequer.*)

(§ 54.)
The like, after
plea to a *scire*
facias.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *E. F.* and *G. H.* the bail of *C. D.* if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, on — next after —, to satisfy *A. B.* — *l.* (*or, "a certain debt of — *l.*"*) &c. (reciting the *capias ad satisfaciendum*, to the end:) And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. H.* were not, nor was either of them, found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our same court before us, that the said *E. F.* and *G. H.* lurk and secrete themselves in your county: Therefore we command you, that you take the said *E. F.* and *G. H.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to satisfy the said *A. B.* his damages (*or, "debt and damages"*) aforesaid; and have there then this writ. Witness, &c. (439.)

(§ 55.)
Testatum capias
ad satisfaciendum, against
bail to the ac-
tion, in the
King's Bench,
by bill.
Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of —, that he should take *E. F.* and *G. H.* the bail of *C. D.* if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us, on a cer-

(§ 56.)
The like, by
original, after
execution
awarded on a

former *scire facias*, in K. B.
Prac. 1132.

tain day now past, wheresoever we should then be in *England*, to satisfy *A. B.* the sum of —*l.* each, that is to say, for the said *E. F.* to satisfy the said *A. B.* the said sum of —*l.* and for the said *G. H.* to satisfy the said *A. B.* the like sum of —*l.* according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* as the bail of and for the said *C. D.* in our court before us, as appeared to us of record; and whereupon it had been considered in our said court before us, that the said *A. B.* should have his execution thereupon against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* for the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* for the said sum of —*l.* by him in like manner acknowledged, according to the force form and effect of the said recognizance, and of a certain award of execution thereupon, in our said court before us, by the default of them the said *E. F.* and *G. H.* as also appeared to us of record: And our said sheriff of —, at that day returned to us, that the said *E. F.* and *G. H.* were not, nor was either of them, found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our same court before us, that the said *E. F.* and *G. H.* lurk and secrete themselves in your county: Therefore we command you, that you take the said *E. F.* and *G. H.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us, on —, wheresoever we shall then be in *England*, to satisfy the said *A. B.* the said sum of —*l.* each as aforesaid; and have there this writ. Witness, &c. (439.)

(§ 57.)
 The like, after
 one of the bail
 had been taken,
 for taking the
 other.

Prac. 1132.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we lately commanded our sheriff of —, &c. (*as in the last writ, to the end of the return of non est inventus, and then as follows:*) Whereupon, on the behalf of the said *A. B.* it was sufficiently testified in our same court before us, that the said *E. F.* and *G. H.* lurked and secreted themselves in the county of —: Therefore, by our writ, we lately commanded our sheriff of —, that he should take the said *E. F.* and *G. H.* if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us, on — now last past, wheresoever we should then be in *England*, to satisfy the said *A. B.* the said sum of —*l.* each as aforesaid; and that he should have there that writ: And our said sheriff of — at that day returned to us, upon the said last-mentioned writ, that he had taken the said *E. F.* whose body he had ready; and that the said *G. H.* was not found in his bailiwick: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our same court before us, that the said *G. H.* lurks and secretes himself in your county: Therefore we command you, that you take the said *G. H.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us, on —, wheresoever we shall then be in *England*, to satisfy the said *A. B.* the said sum of —*l.* by him in form aforesaid acknowledged; and have there this writ. Witness, &c. (439.)

George the Fourth, &c. (352.) To the sheriff of *Middlesex*, greeting: We command you, that you take *E. F.* and *G. H.* the bail of *C. D.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to satisfy *A. B.* — *l.* which the said *E. F.* and *G. H.* in our court before us, according to the form of the statute made for avoiding unnecessary delays of execution, acknowledged themselves to owe to the said *A. B.* to be paid to the said *A. B.* his executors or assigns; whereof the said *E. F.* and *G. H.* are convicted, as appears to us of record: And whereupon it is considered, in our same court before us, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* for the said — *l.*; and have there then this writ. Witness, &c. (439.)

(§ 58.)
Capias ad satisfaciendum
against bail in error, on a recognizance taken in the King's Bench.

Prac. 1101.
1132.

B. } It is ordered, that the king's writ of *scire facias* be issued forth,
v. } upon a judgment obtained by the plaintiff against the defendant, in
D. } — term, in the — year of the reign of his present majesty king *George the Fourth*, and entered on record in this court, of the same term, for — *l.* debt, and — damages.

(§ 59.)
Rule for *scire facias*, on a judgment above seven, and under ten years old, in C. P.

Prac. 484.
1105.

Side Bar.

By the Court.

B. } It is ordered, that a writ of our lord the king of *scire facias* be
v. } issued against the defendant, upon a judgment obtained by the
D. } plaintiff, in — term, in the — year of the reign of his present majesty king *George the Fourth*, and entered on record of the same term, for — *l.* debt, and — damages: But no execution shall be issued thereupon, unless the sheriff shall return on the said writ, that he hath made known to the said defendant, according to the tenor thereof, or an affidavit shall be made in writing, that personal notice of the said writ having been prosecuted, hath been given to the said defendant.

(§ 60.)
The like, on a judgment above ten, and under twenty years old, in C. P.

Prac. 486.
1105, 6.

On the motion of Serjt. *Andrews* for the plaintiff.

By the Court.

— to wit. *Scire facias* to revive, for *A. B.* against *C. D.* for — *l.* damages, (or “ — *l.* debt, and — *l.* damages,”) returnable on —.

E. F. attorney.

— 18—.

(§ 61.)
Præcipe for scire facias, on a judgment.

Prac. 1105.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ,* and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as

(§ 62.)
Scire facias on a judgment in *assumpsit*, in K. B.

Prac. 1106.

* This and the following writs, in the King's Bench, are mostly drawn as if the former proceedings were by *bill*: If they were by *original*, say, “by our writ, and by the judgment of the same court,” &c. making the writ returnable on a *general* return day, wheresoever, &c.; and instead of concluding with the words “have there then the names,” &c. say, “have there the names,” &c.

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appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages aforesaid still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him of the damages aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him; and further to do and receive what our said court before us shall then and there consider of him in this behalf; and have there then the names of those by whom you shall so make known to him, and this writ. Witness *Charles Lord Tenterden*, at *Westminster*, the — day of —, in the — year of our reign. *Ellenborough.*

(§ 63.)
The like, in
debt, in *K. B.*
Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of —*l.* and also —*l.* which in the same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the debt and damages aforesaid still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the debt and damages aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him; and further to do and receive, &c. (*as in the last.*)

(§ 64.)
The like, in
covenant, in
K. B.
Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* —*l.* for his damages which he had sustained, as well on occasion of the breach of a certain covenant, made between the said *A. B.* and the said *C. D.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, &c. (*as before, § 62.*)

(§ 65.)
In case.
Prac. 1106.

For his damages which he had sustained, as well on occasion of a certain grievance, then lately committed by the said *C. D.* as for his costs, &c. (455, 6.)

For his damages which he had sustained, as well on occasion of certain trespasses, then lately committed by the said *C. D.* as for his costs, &c. (455, 6.)

(§ 66.)
In trespass.
Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, to wit, in — term, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* — *l.* which to the said *A. B.* in the same court were adjudged, for his damages which he had sustained, on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* at —, in your county; whereof the said *C. D.* is convicted, as by the record and proceedings thereof, remaining in our said court before our justices at *Westminster* aforesaid, manifestly appears: yet execution of the said judgment still remains to be made, as by the information of the said *A. B.* in our said court, we have been given to understand: And because we are willing that those things which in our said court are rightly done and transacted, should be duly carried into execution; we command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before our justices at *Westminster*, on —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have execution against him, for the damages aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him; and have there the names of those by whom you shall so make known to him, and this writ. Witness Sir *William Draper Best* knight, at *Westminster*, the — day of —, in the — year of our reign.

(§ 67.)
Scire facias on a judgment in *assumpsit*, in C. P.
Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, to wit, in — term, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* as well a certain debt of — *l.* as also — *l.* which were adjudged to the said *A. B.* in our same court, for his damages which he had sustained, on occasion of the detaining of that debt; whereof the said *C. D.* is convicted, &c. (*as in the last.*)

(§ 68.)
The like, in debt, in C. P.
Prac. 1106.

In *covenant*, it should be stated, that the plaintiff recovered against the defendant — *l.* for his damages which he had sustained, on occasion of the breach of a certain covenant, made between the said *A. B.* and the said *C. D.*; whereof the said *C. D.* is convicted, &c. (455, 6.)

(§ 69.)
The like, in *covenant*, in C. P.
Prac. 1106.

For his damages which he had sustained, on occasion of a certain grievance, then lately committed by the said *C. D.* at — in your county; whereof the said *C. D.* is convicted, &c. (455, 6.)

(§ 70.)
In case.
Prac. 1106.

For his damages which he had sustained, on occasion of certain trespasses, (*or, in trespass and assault* "of certain trespasses and assaults,") then lately committed by the said *C. D.* at — in your county; whereof the said *C. D.* is convicted, &c. (455, 6.)

(§ 71.)
In trespass.
Prac. 1106.

(§ 72.)
The like, in the
Exchequer, in
debt.

Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (or, “in the — year of our reign,”) by the consideration and judgment of the same court, recovered against *C. D.* as well a certain debt of —*l.* as —*l.* which to the said *A. B.* were adjudged in our said court, for his damages which he had sustained, by reason of detaining the said debt ; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us : And although the said judgment be rendered, yet execution thereof still remains to be made, as by the information of the said *A. B.* in our said court, we have been given to understand : And we being willing that those things which are rightly done in our said court, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before the barons of our said Exchequer at *Westminster*, on, (&c.) to shew if he hath or can say any thing for himself, why the said *A. B.* should not have his execution against the said *C. D.* for the debt and damages aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him : And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer at *Westminster*, on, (&c.) ; and have you there the names of those by whom you shall so make known to him, and this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 73.)
Scire facias for
the defendant,
for costs, in
K. B.

Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *C. D.* lately in our court before us at *Westminster*, by the judgment of the same court, recovered against *A. B.* —*l.* which in the same court were adjudged to the said *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence of and in a certain plea of trespass on the case, &c. (or, as the plea was,) before then commenced and depending in our same court, by and at the suit of the said *A. B.* against the said *C. D.* ; whereof the said *A. B.* is convicted, &c. (455, 6.) And now, on the behalf of the said *C. D.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the costs and charges aforesaid still remains to be made to him ; wherefore the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf : And we being willing, &c. (456.) command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us at *Westminster*, on, &c. (*id.*) to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have his execution against him, of the costs and charges aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him ; and further to do and receive, &c. (*as before*, p. 456.)

(§ 74.)
Scire facias to
a county pala-
tine, in K. B.

Prac. 1106.

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*as before*, pp. 455, 6. to the

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mandatory part of the writ, which is as follows:)—command you, that by our writ under the seal of our said county palatine to be duly made, and directed to the sheriff of the said county palatine, you command the said sheriff, that by good and lawful men of his bailiwick, he make known, &c. (*as before*;) and have you there then the names of those by whom the said sheriff shall so make known to him, and this writ. Witness, &c. (456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*stating the judgment*;) whereof the said *C. D.* is convicted, as appears to us of record; and whereupon it was afterwards considered in our said court before us, that the said *A. B.* should have his execution against the said *C. D.* of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, as also appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, and execution awarded in form aforesaid, yet execution of the damages (*or*, “debt and damages”) aforesaid still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery and award of execution, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

(§ 75.)
Scire facias, after a former revival, in K. B.
Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, before the right honourable Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by our writ, and by the judgment of the same court, recovered, &c. (*stating the judgment*;) whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error, we lately caused to be brought into our said court before us, appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, &c. (*as before*, p. 456. *making the writ returnable on a general return day, where-soever*, &c.)

(§ 76.)
Scire facias pending error, on a judgment of the Common Pleas.
Prac. 1107.
1165.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court of —, before the judges of the same court, without our writ, and by the judgment of the same court, recovered against *C. D.* —/— for his damages which he had sustained, as well on

(§ 77.)
The like, on error from an inferior court.
Prac. 1107.
1165.

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occasion of the not performing of certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* at — in your county, and within the jurisdiction of the same court, as for his costs, &c. (455. ;) whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error, we lately caused to be brought into our said court before us, manifestly appears: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, &c. (*as directed in the last.*)

(§ 79.)

Scire facias, after a judgment of the Common Pleas, affirmed in the King's Bench.

Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, before the right honourable Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by our writ, and by the judgment of the same court, recovered, &c. (*stating the original judgment*;) whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, by virtue of our certain writ of error, prosecuted by the said *C. D.* of and upon the premises, and which now remains in our said court before us, in all things affirmed, appears to us of record; and afterwards the said *A. B.* by the consideration and judgment of our said court before us, recovered against the said *C. D.* — *l.* which in our said court before us were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our said writ of error, by the said *C. D.* so as aforesaid prosecuted, of and upon the premises; whereof the said *C. D.* is also convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, and affirmed in form aforesaid, yet execution of that judgment still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us, on —, wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him; and further to do and receive, &c. (*as before, p. 456.*)

(§ 80.)

The like, for the residue, where part had been levied by

(*As in the last, to the end of the adjudication of damages and costs, on the affirmation of the judgment, and then as follows*;) whereof the said *C. D.* is also convicted, as appears to us of record: And whereas, by our writ of *testatum fieri facias*, we lately commanded our sheriff of —,

that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made the several damages costs and charges aforesaid; and have those monies before us, at a certain day now also past, to be rendered to the said *A. B.* for his several damages costs and charges aforesaid: And our said sheriff of — at that day returned to us, that he had made his mandate to the chief bailiff of the liberty of —, who had the execution of all writs within the same liberty, and without whom no execution of the same writ could be made by the said sheriff within the same, and which said chief bailiff had returned to him, that by virtue of the said mandate, he had caused to be made of the goods and chattels of the said *C. D.* in the bailiwick of the said chief bailiff, — *l.* and that he had that money ready before us, to render to the said *A. B.* in part of his damages costs and charges aforesaid; and the said sheriff of — further returned, that the said *C. D.* had no other or more goods or chattels, either within the bailiwick of the said chief bailiff, or in the bailiwick of the said sheriff, whereof he could cause to be made the residue of the said several damages costs and charges: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be given and affirmed in form aforesaid, yet execution of that judgment, for the residue of the several damages costs and charges aforesaid, still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, &c. (*as in the last, making the scire facias to shew, &c.* “why the said *A. B.* ought not to have execution against him, of the residue of the several damages costs and charges aforesaid, according to the force form and effect of the said recovery, and adjudication;”) and further to do and receive, &c. (*as before, p. 456.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*stating the original judgment:*) whereof the said *C. D.* is convicted, as appears to us of record; and afterwards the said *C. D.* brought a writ of error upon the said judgment, returnable in our court of Exchequer Chamber at *Westminster*, before our justices of the bench, and the barons of our Exchequer of the degree of the coif, according to the form of the statute in such case made and provided. And such proceedings were thereupon had in our said court of Exchequer Chamber, that the said judgment was afterwards in all things affirmed; and the said *A. B.* by the consideration and judgment of the same court, recovered against the said *C. D.* — *l.* which in the same court were adjudged to the said *A. B.* according to the form of the statute, &c. (*as above,*) for his damages, &c. (*as in the last,*) on pretence of prosecuting our said writ of error; whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that

the bailiff of a liberty, under a mandate, on a *testatum fieri facias.*

Prac. 1106.

(§ 81.) The like, after a judgment of the King's Bench, affirmed in the Exchequer chamber.

Prac. 1106.

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although judgment be thereupon given and affirmed in form aforesaid, yet execution of the damages costs and charges aforesaid still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him; and further to do and receive, &c. (*as before, p. 456.*)

(§ 82.)

The like, after
non pros, on a
writ of false
judgment.

Prac. 1106.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately, to wit, at the — county-court of — Esquire, sheriff of your county, held at — in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the year of our Lord 18—, before *E. F. G. H. I. K.* and *L. M.* gentlemen, freeholders of the said county, and suitors of the same court, by the consideration and judgment of the same court, recovered, &c. (*stating the judgment in the county court:*) whereof the said *C. D.* is convicted, as by the record of the plaint between the said *A. B.* and *C. D.* in that behalf, which we lately caused to be recorded in the full county aforesaid, and the record thereof had in our court before us at *Westminster*, on — last past, under the seal of the said —, sheriff of the said county, and the seals of four lawful knights of the same county, of such as were present at the said recording, by virtue of our writ, at the instance of the said *C. D.* who complained that false judgment had been given against him in the said county, and which said writ the said *C. D.* did not further prosecute in the same court, manifestly appears; nevertheless execution of the said judgment still remains to be made, as on the information of the said *A. B.* in our said court before us, we have been given to understand: And because we are willing that those things which in our said court, and in the county court aforesaid, are rightly done and transacted, should be duly carried into execution; therefore we command you, that by honest and lawful men of your bailiwick, you make known, &c. (*as before, p. 456.*)

(§ 83.)

Scire facias to
disprove a debt,
in the Mayor's
court of *London*,
after judgment
and execution
on a foreign at-
tachment.

Prac. 1107. (c.)

To *L. M.* one of the serjeants at } By the Mayor, &c.
mace, &c.

Whereas heretofore, that is to say, on the — day of —, in the — year of the reign of his present majesty king *George* the Fourth, *A. B.* in his own proper person, came into the king's majesty's court, holden before — Esquire, then mayor, and the aldermen of the city of *London*, in the chamber of the *Guildhall* of the same city, situate in the parish of *St. Michael Bassishaw*, in the ward of *Bassishaw*, within the same city, according to the custom of the said city; and then and there, in the same court, according to the custom of the said city, affirmed his certain bill original against *C. D.* in a plea of debt upon demand of — *l.* of lawful money of *Great Britain*; and the said *A. B.* then and there,

in the same court, according to the custom of the said city, found pledges to prosecute his said bill original, to wit, *John Doe* and *Richard Roe*, and appointed in his stead *G. H.* his attorney, against the said *C. D.* in the plea aforesaid; and by his said attorney, then and there prayed process to be granted to him against the said *C. D.* upon his said bill original, and it was then and there granted to him, according to the custom of the said city: And thereupon it was commanded to *L. M.* one of the serjeants at mace and ministers of the said court, that he, according to the custom of the said city, should summon by good summoners, the said *C. D.* to be and appear in the said court, to answer the said *A. B.* in the plea aforesaid: At which said court, the said serjeant at mace, according to the custom of the said city, returned and certified to the said court, that the said *C. D.* was not to be found within the said city, nor had any thing within the liberties thereof, whereby he could be summoned: And thereupon the said *C. D.* at the same court, was solemnly called, and did not appear, but made default: whereupon the said *A. B.* prayed process of the said court, according to the custom of the said city, to attach the said *C. D.* by his monies, being in the hands and custody of *E. F.* so that the said *C. D.* should appear at the then next court, to be holden, &c. to answer the said *A. B.* in the plea aforesaid: And afterwards, to wit, on the — day of — aforesaid, between the hours of — and — in the — noon of the same day, the said *C. D.* was attached by — *l.* in monies numbered, as the proper monies of the said *C. D.* being in the hands and custody of the said *E. F.* the garnishee, &c. defended, &c. according to the custom, &c. by the said *L. M.* one of the serjeants at mace, and a minister of the said court. And whereas also afterwards, and after four defaults being recorded according to the custom of the said city, against the said *C. D.* by virtue of the said bill original, affirmed as aforesaid, that is to say, on the — day of —, in the — year of the reign aforesaid, at the king's majesty's said court, holden before the said — then mayor, and the aldermen of the said city, according to the custom of the said city, at the petition of the said *A. B.* made to the said court, by his said attorney, it was commanded by the said court, to the said serjeant at mace, that he should warn and make known to the said *E. F.* to be and appear in the king's majesty's said court, to be holden, &c. on — the — day of — aforesaid, to shew cause, (if any he had,) why the said *A. B.* ought not to have execution against him, for the said — *l.* so attached as aforesaid; on which said last-mentioned day, the said serjeant at mace returned and certified to the said court, that he by virtue of the said precept to him directed, had warned and made known to the said *E. F.* the garnishee, to be and appear in the said court, to be holden, &c. to shew cause as aforesaid, as to him was above commanded: And thereupon, at the petition of the said *A. B.* made to the said court, by his said attorney, the said *E. F.* was then and there solemnly called, and appeared, and appointed in his stead *I. K.* his attorney; and by his said attorney pleaded to the said attachment, whereupon issue was joined between the said parties: And afterwards, to wit, at a court holden before the said

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— then mayor, and the aldermen of the said city of *London*, in the chamber of the *Guildhall* of the said city, situate in the parish aforesaid, in the ward aforesaid, within the same city, on the — day of —, in the — year of the reign aforesaid, the said *A. B.* recovered against the said *E. F.* — *l.* in monies numbered, as the proper monies of the said *C. D.*: Whereupon, on the — day of —, in the — year of the reign aforesaid, it was considered by the said court, that the said *A. B.* should have execution of the said — *l.* in monies numbered, so attached as aforesaid, by pledges to be found and given by the said *A. B.* in the said court, according to the custom of the said city, to restore, &c. to the said *C. D.* the said — *l.* so attached as aforesaid, if the said *C. D.* should, within a year and a day then next following, come into the said court, and find pledges and sureties to have the body of the said *C. D.* forthcoming, to answer the said *A. B.* in and upon the plea of his said bill original, and to disprove or avoid the debt demanded by the said bill original, according to the custom of the said city, or render his body to prison, within the liberties of the said city, and there remain, ready to plead with the said *A. B.* in and upon the said bill original, or otherwise to discharge himself therefrom, according to the custom of the said city; and it was further considered by the said court, that the said *A. B.* should have process for the remainder of the said debt, against the said *C. D.* according to the custom of the said city: And thereupon, at the same court, the said *A. B.* found sufficient pledges and sureties, that is to say, *N. O.* and *P. Q.* citizens of the said city, to restore, &c. to the said *C. D.* the said — *l.* so attached as aforesaid, if the said *C. D.* should within a year and a day then next following, according to the custom, &c. find pledges and sureties to have the body of the said *C. D.* forthcoming to answer the said *A. B.* in and upon the plea of his said bill original, and to disprove or avoid the debt demanded by the said bill original, according to the custom of the said city, or render his body to prison, within the liberties of the said city, and there remain, ready to plead with the said *A. B.* in and upon his said bill original, or otherwise to discharge himself therefrom, according to the custom of the said city; and thereupon the said *A. B.* at the same court, had execution of the said — *l.* so attached as aforesaid, and thereof acknowledged himself satisfied. And whereas also afterwards, and within a year and a day next after judgment and execution had of the said — *l.* in monies numbered, so attached as aforesaid, that is to say, on the — day of —, in the — year of the reign aforesaid, at the king's majesty's said court, holden before — Esquire then mayor, and the aldermen of the said city of *London*, in the chamber of the *Guildhall* of the said city, according to the custom of the said city, the said *C. D.* in his own proper person, came into the same court, and then and there found pledges and sureties, to wit, *R. S.* and *T. V.* citizens of the said city, to have the body of the said *C. D.* forthcoming, to answer the said *A. B.* in and upon the plea of his bill original aforesaid, and to disprove or avoid the debt demanded by the said bill original, according to the custom of the said city; and the said *C. D.*

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then and there appointed in his stead *W. Y.* his attorney, in the plea aforesaid, and by his said attorney, the said *C. D.* prayed process to be awarded to him against the said *A. B.* according to the custom of the said city: And therefore we the said — mayor, and the aldermen of the said city, do command you the said serjeant at mace, that by good and lawful men of the said city, you warn and make known to the said *A. B.* to be and appear in the king's majesty's court, to be holden before us the said mayor and aldermen of the said city, in the chamber of the *Guildhall* of the said city, on — the — day of — instant, to shew cause, (if any he has,) why the said — *l.* so attached, and in execution had as aforesaid, ought not to be restored and paid to the said *C. D.* according to the custom of the said city, &c.; and that you have there, at the same time, the names of those by whom, &c. and this precept. Dated, (&c.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* heretofore, to wit, in — term, in the — year of our reign, in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and also — *s.* for his damages which he had sustained, as well on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before us, at *Westminster* aforesaid, manifestly appears: which said judgment, so recovered against the said *C. D.* as aforesaid, was had and obtained upon a certain writing obligatory, bearing date the — day of — in the year of our Lord 18—, and sealed with the seal of the said *C. D.* whereby the said *C. D.* became held and firmly bound to the said *A. B.* in the said sum of — *l.* to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested; with and under a certain condition to the said writing obligatory subscribed, whereby, after reciting, &c. (*stating the recital, if any, preceding the condition of the bond,*) it was declared, that if the said *C. D.* &c. (*to the end of the condition:*) And whereas the said *A. B.* heretofore assigned (*or, after judgment by default, suggested*) a certain breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided, to wit, that, &c. (*reciting the former breach;*) and damages were thereupon assessed, for and by reason of the said breach so assigned (*or, suggested*); which damages have been since paid and satisfied: And whereas it hath been and is duly suggested by the said *A. B.* in our said court before us, as and by way of another and further breach of the said condition of the said writing obligatory, than the said breach so assigned (*or, suggested*) as aforesaid, that after the recovery of the said judgment, and in the life-time of the said *C. D.* to wit, on the — day of — in the year of our Lord 18—, at — in your county, a large sum of money, to wit, the sum of — *l.* of

(§ 84.)
Scire facias after judgment in debt on an annuity bond, suggesting a further breach of the condition, on the statute 8 & 9 W. III. c. 11. § 8. in *K. B.*
Prac. 1108.

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lawful money of *Great Britain*, of the said annuity or yearly sum of — *l.* in the said condition mentioned, for — then elapsed, became and was due and payable from the said *C. D.* to the said *A. B.* and which said sum of — *l.* is still due, in arrear and unpaid from the said *C. D.* to the said *A. B.* contrary to the form and effect of the said condition of the said writing obligatory; for which said last-mentioned breach of the aforesaid condition of the said writing obligatory, the said *A. B.* hath humbly besought us to provide him a proper remedy: And we being willing that what is just in this behalf should be done, do, according to the form of the statute, in such case made and provided, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — — next after —, to shew cause why execution should not be had and awarded against him, upon the said judgment so obtained as aforesaid, for the damages to be assessed by reason of the said last-mentioned breach of the said condition of the said writing obligatory, if it shall seem expedient for the said *A. B.*; and further to do and receive what our said court before us shall then and there consider of him in this behalf: and have there then the names of those by whom you shall so make known to him, and this writ. Witness, &c. (439.)

(§ 85.)
The like, in
debt on articles
of agreement,
in K. B.

Prac. 1108.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* heretofore, to wit, in — term, in the — year of our reign, in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*as in last*;) whereof the said *C. D.* was convicted, &c. (*as in last*;) which said debt so recovered as aforesaid, was and is a certain penal sum of — *l.* mentioned in certain articles of agreement, made the — day of — in the year of our Lord 18—, between the said *A. B.* of the one part, and the said *C. D.* of the other part; by which said articles of agreement, reciting, &c. (*as in the articles*;) it is witnessed, &c. (*setting forth so much of the articles, as is necessary for assigning the further breaches*;) And whereas the said *A. B.* heretofore assigned a certain breach of the said articles of agreement, &c. (*as in the last, substituting* “the said articles of agreement,” for “the said condition of the said writing obligatory.”)

(§ 86.)
The like, in the
Exchequer, in
debt on an-
nuity bond,
after a former
scire facias.

Prac. 1108.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* our debtor, heretofore, to wit, in — term, in the — year of our reign, in our court before the barons of our Exchequer at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*as in the last but one*;) whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before the barons of our said Exchequer at *Westminster* aforesaid, manifestly appears: which said judgment was so recovered against the said *C. D.* as aforesaid, upon a certain writing obligatory, bearing date, &c. (*date of bond*;) and sealed with the seal of the said *C. D.* whereby the said *C. D.* became held and firmly bound to the said *A. B.* in the said sum of — *l.* to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested; under and subject to a

certain condition thereto subscribed, whereby, after reciting, &c. (*stating the recital, if any, preceding the condition of the bond,*) it was declared, that if, &c. (*reciting the condition.*) And whereas the said *A. B.* heretofore assigned (*or, after judgment by default, suggested*) a certain breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided, to wit, that, &c. (*reciting the former breach*); and damages were thereupon assessed, for and by reason of the said breach so assigned (*or, suggested*); which damages have been since paid and satisfied: And whereas after the recovery of the said judgment, to wit, in — term, in the — year of our reign, there issued out of our said court, before the barons of our said Exchequer, our certain writ of *scire facias* upon the said judgment, against the said *C. D.* according to the form of the statute in such case made and provided, suggesting another and further breach of the said condition of the said writing obligatory, in the non-payment of the sum of — *l.* for — of the said annuity or yearly sum of — *l.* which became due and owing from the said *C. D.* to the said *A. B.* on the — day of — in the year of our Lord 18—; and which said sum of — *l.* hath been also paid and satisfied: And whereas it hath been and is duly suggested by the said *A. B.* in our said court, before the barons of our said Exchequer, as and by way of another and further breach of the said condition of the said writing obligatory, than the said breaches respectively assigned and suggested as aforesaid, that, &c. (*assigning the further breach, and proceeding as follows:*) for which said last-mentioned breach of the said condition of the said writing obligatory, the said *A. B.* hath humbly besought us to provide him a proper remedy: And we being willing, &c. (*as before, mutatis mutandis*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels in your bailiwick, which were of *E. F.* deceased at the time of his death, in the hands and possession of *C. D.* executor of the last will and testament of the said *E. F.* (*or, “ administrator of all and singular the goods, chattels and credits, which were of the said E. F. at the time of his death, who died intestate, as it is said,”*) to be administered, you should cause to be made a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered, &c. (*as in the writ of fieri facias,*) whereof the said *C. D.* was convicted, as appeared to us of record, if the said *C. D.* had so much thereof in his hands to be administered, and if he had not so much thereof in his hands to be administered, then that you should cause the damages aforesaid to be made of the proper goods and chattels of the said *C. D.*; and that you should have that money before us at *Westminster*; on a certain day now past, to render to the said *A. B.* for his debt and damages aforesaid: And you at that day returned to us, that the said *C. D.* had no goods or chattels in your baili-

(§ 87.)
Scire fieri inquiry.

Prac. 1025.
1114.

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wick, which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, whereof you could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the debt and damages aforesaid, or any part thereof: And because the return aforesaid, by you made in our said court before us, seems to be in delay of execution of the debt and damages aforesaid; and because, on the behalf of the said *A. B.* in our said court before us, it is sufficiently testified, that divers goods and chattels, which were of the said *E. F.* at the time of his death, to the value of the debt and damages aforesaid, after the death of the said *E. F.* came to the hands and possession of the said *C. D.* to be administered, and that the said *C. D.* hath sold and wasted those goods and chattels, and converted and disposed of the money arising therefrom to his own use; and that the said *C. D.* hath eloiigned the residue of the goods and chattels, which were of the said *E. F.* at the time of his death, to places to the said *A. B.* unknown, and hath converted and disposed of the said last-mentioned goods and chattels to his own use, with intent that execution thereof should not as yet be made: And because we are unwilling that those things which in our said court before us are rightly done or adjudged, should be rendered ineffectual by fraud or subtilty; therefore we command you, that of the goods and chattels in your bailiwick, which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, you cause to be made the debt and damages aforesaid, if they can be levied thereof; and have the money thereof levied, before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his debt and damages aforesaid; and if they cannot be thereof levied, then if it shall appear to you, by the inquisition upon oath of honest and lawful men of your bailiwick, in this behalf to be taken, or in any other manner by which you may the better know, that the said *C. D.* hath sold, eloiigned, wasted, or converted or disposed of to his own use, the goods or chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, to the value of the debt and damages aforesaid, or any part thereof, that then, by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the debt and damages aforesaid, to be levied of the proper goods and chattels of the said *C. D.* if it shall seem expedient for him; and further to do and receive, &c. (as before, p. 456.)

(§ 88.)
Scire facias
against an executor or administrator, on a judgment of assets *quando acciderint*.

Prac. 1113.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* executor of the last will and testament of *E. F.* deceased, (or, “ administrator of all and singular the goods, chattels and credits, which were of *E. F.* deceased at the time of his death, who died intestate.”)

—*l.* for his damages, &c. (*or*, “a certain debt of —*l.*”) to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which should thereafter come to the hands of the said *C. D.* executor (*or*, “administrator”) as aforesaid to be administered; whereof the said *C. D.* was convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (*or*, “debt”) aforesaid, still remains to be made to him; and after the judgment aforesaid, in form aforesaid given, divers goods and chattels which were of the said *E. F.* at the time of his death, to the value of the damages (*or*, “debt”) aforesaid and more, came to and are now in the hands and possession of the said *C. D.* executor (*or*, “administrator”) as aforesaid to be administered, whereof he may satisfy the said *A. B.* for the damages (*or*, “debt”) aforesaid, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* executor (*or*, “administrator”) as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have execution against him for the damages (*or*, “debt”) aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which so as aforesaid came to and are now in the hands of the said *C. D.* executor (*or*, “administrator”) as aforesaid to be administered, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*as in a common scire facias, to the words “as appears to us of record:”*) And whereas also we have been informed, that after the 24th day of *June* in the year of our Lord 1732, and before the issuing of the second commission of bankrupt against the said *C. D.* hereinafter mentioned, to wit, on —, at —, the said *C. D.* became a bankrupt, within the true intent and meaning of the several statutes made and then in force concerning bankrupts, or some or one of them; and that thereupon afterwards, to wit, on —, at — aforesaid, a commission of bankrupt, under the great seal of *Great Britain*, was duly awarded and issued against the said *C. D.* as by the said commission, reference being thereto had, more fully appears; and that the said *C. D.* afterwards, to wit, on —, at — aforesaid, was under and by virtue of such commission, duly found to

(\$ 89.)

Scire facias against the future effects of a bankrupt, whose estate did not pay fifteen shillings in the pound, under a second commission, in *K. B.**

Prac. 1110, 11.

* This form, and the following one, are of little use, since the statute 6 Geo. IV. c. 16. § 127. by which it seems, that upon a commission *subsequently* issued, the *future* effects of a bankrupt, who has not paid *fifteen* shillings in the pound under a second commission, are no longer liable to his particular creditors, or to any proceeding, by *scire facias* or otherwise, for the recovery of their debts; but are vested in the *assignees* alone, who are entitled to seize the same for the benefit of the creditors in general under the commission. See *Prac.* 1111.

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have become a bankrupt, before the date and issuing forth of the said commission, and was thereupon then and there declared and adjudged a bankrupt accordingly; and that the said *C. D.* afterwards, to wit, on —, at — aforesaid, did in due manner obtain his certificate under the said commission of bankrupt, so awarded and issued against the said *C. D.* as aforesaid; and that the said *C. D.* was thereupon afterwards, to wit, on — last aforesaid, at — aforesaid, discharged in that behalf, by virtue of a certain act of parliament made and passed in the fifth year of the reign of his late majesty king *George* the Second, intituled “An act to prevent the committing of frauds by bankrupts;” and that the said *C. D.* after such discharge, to wit, on —, did again become bankrupt, within the true intent and meaning of the several statutes made and then in force concerning bankrupts, or some or one of them; and that thereupon afterwards, to wit, on —, at — aforesaid, another commission of bankrupt, under the great seal of *Great Britain*, was duly awarded and issued against the said *C. D.* as by the said last-mentioned commission, reference being thereto had, more fully appears; and that the said *C. D.* afterwards, to wit, on —, at — aforesaid, was under and by virtue of such last-mentioned commission, duly found to have become a bankrupt, before the date and issuing forth of the said last-mentioned commission, and was thereupon then and there declared and adjudged to be a bankrupt accordingly: And whereas we have been further informed, that the debt, for which the judgment aforesaid was given, became and was due and owing from the said *C. D.* to the said *A. B.* after the said *C. D.* was discharged as hereinbefore mentioned, and before the said *C. D.* became bankrupt as last above mentioned; and that the said *C. D.* after the said judgment was given in form aforesaid, to wit, on —, at —, was charged in execution upon the said judgment, for the debt and damages aforesaid, and was detained in prison on that occasion, until the time of his discharge as hereinafter mentioned; and that the said *C. D.* after the said judgment was given in form aforesaid, and after the said *C. D.* was so charged in execution as aforesaid, to wit, on —, at — aforesaid, duly obtained his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against the said *C. D.* as aforesaid, and was thereupon afterwards, to wit, on —, discharged out of custody on such execution, by virtue of the said act of parliament made and passed in the fifth year of the reign of his said late majesty king *George* the Second, intituled “An act to prevent the committing of frauds by bankrupts;” and the estate of the said *C. D.* hath not at any time hitherto produced clear, after all charges, sufficient to pay every creditor under the said last-mentioned commission, so awarded and issued against the said *C. D.* as aforesaid, fifteen shillings in the pound for their respective debts: And whereas also we have further been informed, that the said *C. D.* is possessed of divers goods and chattels in your bailiwick, as of his own proper goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining of his certificate under the said last-mentioned commission of bankrupt, so awarded

and issued against the said *C. D.* as aforesaid, whereby the said *A. B.* may be satisfied his debt and damages aforesaid; and the said *A. B.* hath obtained no execution for the said debt or damages, except as aforesaid; whereupon the said *A. B.* hath besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick, you cause to be made known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against the goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining of his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against him as aforesaid, and also against the estate and other effects of the said *C. D.* (the tools of trade, the necessary household goods and furniture, and necessary wearing apparel of the said *C. D.* and his wife and children, only excepted,) for the debt and damages aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, if it shall be expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*as in a common scire faciās, to the words* “as appears to us of record:”) And whereas also we have been informed, that after the 24th day of *June* in the year of our Lord 1732, and before the issuing of the commission of bankrupt against the said *C. D.* hereinafter mentioned, to wit, on —, at — in your county, the said *C. D.* compounded with his creditors, and delivered to them his estate and effects, and was thereupon then and there released by his said creditors; and that the said *C. D.* after having so compounded with his creditors, and been released as aforesaid, to wit, on —, at — aforesaid, did become bankrupt, &c. (*as in the last, to the end, mutatis mutandis; stating that the debt for which the judgment was given, became due* “after the said *C. D.* had compounded with his creditors, and been released as hereinbefore mentioned, and before the said *C. D.* became bankrupt as aforesaid.”)

George the Fourth, &c. (352.) To the sheriff of *Lancashire*, greeting: Whereas *A. B.* lately in our court before our justices at *Lancaster*,

(§ 90.)
The like, where the bankrupt had previously compounded with his creditors, in *K. B.* *Prac.* 1110, 11.

(§ 91.)
The like, against the future effects of a defendant discharged under an insolvent act, on a judgment in the Common Pleas at *Lancaster*.^{*} *Prac.* 1112.

* This form is now of little use; it being enacted by the last general insolvent act, 7 Geo. IV. c. 57. § 61. that “after any person shall have become entitled to the benefit of that act, “by any such adjudication as therein mentioned, no writ of *fiery facias* or *elegit* shall issue on “any judgment obtained against such prisoner, for any debt or sum of money with respect to “which he shall have so become entitled, nor in any action upon any new contract or security “for payment thereof, except upon the judgment entered up against such prisoner, according “to that act:” though the future effects of a person discharged under the *Lords’* act, or by virtue of the statute 48 Geo. III. c. 123. except his necessary wearing apparel, &c. seem to be still liable to be taken in execution, for satisfying the demands of his creditors. *Prac.* 1112.

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by our writ, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereas also we have been informed, that the said *C. D.* was actually a prisoner in his majesty's prison of —, at the suit of the said *A. B.* on the — day of — 18—, mentioned in a certain act, made at our parliament, holden at *Westminster* in the county of *Middlesex*, in the — year of our reign, intituled, "An act for the relief of certain insolvent debtors;" and was then and there charged in execution upon the said judgment, for the damages aforesaid, and was detained in prison on that occasion, until the time of his discharge hereinafter mentioned; and that afterwards, to wit, at the general quarter sessions of the peace, holden at —, in and for the said county of *Lancaster*, on the — day of — in the year of our Lord 18— aforesaid, before certain then justices assigned to keep our peace in and for the said county of *Lancaster*, he the said *C. D.* was duly discharged, according to the said act: And whereas also we have further been informed, that the said *C. D.* is possessed of divers goods and chattels in your bailiwick, as of his own proper goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his discharge under the said act, whereby the said *A. B.* may be satisfied his damages aforesaid; and the said *A. B.* hath obtained no execution for the said damages, except as aforesaid; whereupon the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick, you cause to be made known to the said *C. D.* that he be before our justices at *Lancaster*, on, (&c.) to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against the goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his said discharge under the said act, and also against the estate and other effects of the said *C. D.* for the damages aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, if it shall seem expedient for him; and further to do and receive what our said court before our justices at *Lancaster* aforesaid, shall then and there consider of him in this behalf; and have there the names of those by whom you shall so make known to him, and this writ. Witness, &c. (*the name of the senior judge who goes, or last went, the northern circuit.*)

(§ 92.)
Scire facias by
baron and feme,
on a judgment

George the Fourth, &c. (352.) To the sheriff of —, greeting:
Whereas *A. B.* lately in our court before us at *Westminster*, by bill with-
out our writ, and by the judgment of the same court, recovered, &c.

(455, 6.) ; whereof the said *C. D.* is convicted, as appears to us of record ; and afterwards, to wit, on —, at —, the said *A. B.* intermarried with and took to husband *E. F.* as by the information of the said *E. F.* and *A.* his wife, in our said court before us, we have been given to understand : And now, on the behalf of the said *E. F.* and *A.* his wife, we have been informed, that although judgment be thereupon given, yet execution of the damages (*or*, “ debt or damages ”) aforesaid still remains to be made to them ; wherefore the said *E. F.* and *A.* his wife have humbly besought us to provide them a proper remedy in this behalf : And we being willing, &c. (*as in a common scire facias, to the end.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* &c. (455, 6.) whereof the said *C. D.* is convicted, as appears to us of record ; and afterwards, the said *C. D.* intermarried with, and took to husband *E. F.* And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (*or*, “ debt and damages ”) aforesaid still remains to be made to him ; wherefore the said *A. B.* hath humbly besought us, &c. (*as before, p. 456.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* and *E.* his wife lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* &c. (455, 6.) whereof the said *C. D.* is convicted, as appears to us of record : And afterwards, to wit, on the — day of — in the year of our Lord 18—, at — in your county, the said *C. D.* died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *G. H.* executor thereof ; after whose death the said *G. H.* duly proved the said last will and testament of the said *C. D.* and took upon himself the burthen of the execution thereof ; and afterwards, to wit, on the — day of — in the year of our Lord 18—, at — aforesaid in your said county, the said *A. B.* also died, and the said *E.* then and there survived him ; as by the information of the said *E.* in our said court before us, we have been given to understand : And now, on the behalf of the said *E.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages, (*or*, “ debt and damages ”) aforesaid still remains to be made : wherefore, &c. (456.) : And we being willing, &c. (*id.*) command you, that by honest and lawful men of your bailiwick, you make known to the said *G. H.* executor as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *E.* ought not to have her execution against him, of the damages (*or*, “ debt and damages ”) aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *G. H.* as executor as aforesaid to be administered, according to the force

recovered by the
feme *dum sola*,
in K. B.

Prac. 1115.

(§ 93.)

The like, against
baron and feme,
upon a judgment
recovered
against the feme
dum sola, in
K. B.

Prac. 1115.

(§ 94.)

The like, for a
feme, who sur-
vived her baron,
against an exe-
cutor, in K. B.

Prac. 1115.

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form and effect of the said recovery, if it shall seem expedient for her; and further to do and receive, &c. (*as before, p. 456.*)

(§ 95.)

The like, by assignees of a bankrupt, on a judgment recovered before the bankruptcy, in K. B.

Prac. 1116.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (*stating the judgment, as in pp. 455, 6.*); whereof the said *C. D.* is convicted, as appears to us of record: And afterwards, the said *A. B.* became bankrupt, within the true intent and meaning of the statute concerning bankrupts, whereupon a certain commission of bankrupt, under the great seal of the united kingdom of *Great Britain and Ireland*, was duly awarded and issued against the said *A. B.*; and all and singular the debts goods and effects of the said *A. B.* at the time of his becoming bankrupt, were, after his so becoming bankrupt, in due manner assigned to *E. F.* according to the form of the statute in such case made and provided: And now, on the behalf of the said *E. F.* assignee as aforesaid, in our said court before us, we have been informed, that although judgment be thereupon given, &c. (*as before, p. 456.*)

(§ 96.)

Scire facias by or against an executor or administrator, on the statute 8 & 9 W. III. c. 11. § 6, where one of the parties died after interlocutory judgment, and before the issuing of a writ of inquiry, in K. B.

Prac. 1117.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, to wit, in — term last past, (*or, "in the — year of our reign,"*) by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us, of a plea of trespass on the case, &c. (*or, as the plea is,*) declaring in the same plea against him, for that whereas, &c. (*here recite the declaration,*) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term, (*or, "in — term last past," or, "in the — year aforesaid,"*) it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the premises: And afterwards, and before the issuing of a writ of inquiry for assessing the said damages, the said *A. B.* (*or, "C. D."*) died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *E. F.* (*or, "G. H."*) executor thereof; after whose death the said *E. F.* (*or, "G. H."*) duly proved the said last will and testament of the said *A. B.* (*or, "C. D."*) and took upon himself the burthen of the execution thereof; (*or, if the plaintiff or defendant died intestate, say, "the said A. B. (or, C. D.) died intestate, and administration of all and singular the goods, chattels and credits, which were of the said A. B. (or, C. D.) at the time of his death, by William by divine providence archbishop of Canterbury, primate of all England and metropolitan, in due form of law was granted to E. F. (or, G. H.) to wit, at — in your county;"*) as by the information of the said *E. F.* executor (*or, "administrator"*) as aforesaid, (*or, "of the said A. B."*) in our said court before us, we have been given to understand; wherefore the said *E. F.* executor (*or, "ad-*

ministrator") as aforesaid, (or, "the said *A. B.*") hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, "to the said *G. H.* executor, or administrator, as aforesaid,") that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *E. F.* executor (or, "administrator") as aforesaid, (or, "by the said *A. B.*") according to the form of the statute in such case made and provided, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, to wit, in — term, in the — year of our reign, before Sir *William Draper Best* knight, and his companions, then our justices of the bench at *Westminster*, by our writ impleaded *C. D.* late of —, declaring in the same plea against him, for that whereas, &c. (*here recite the declaration*,) to the damage of the said *A. B.* of —*l.* as it was said, and therefore he brought his suit, &c.: And such proceedings were thereupon had in our same court, that afterwards, to wit, in — term last past, it was considered by our said court, that the said *A. B.* ought to recover his damages on occasion of the premises: And afterwards, and before the issuing of a writ of inquiry for assessing the said damages, the said *A. B.* (or, "*C. D.*") died, &c. (*as in the last*, to "proper remedy in this behalf:") And because we are willing that those things which in our same court are rightly done and transacted, should be duly carried into execution; we command you, that by good and lawful men of your bailiwick, you make known to the said *C. D.* (or, "to the said *G. H.* executor, or administrator, as aforesaid,") that he be before our justices at *Westminster*, on —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *A. B.* (or, "by the said *E. F.* executor, or administrator, as aforesaid,") according to the form of the statute in such case made and provided, if it shall seem expedient for him; and have you there the names of those by whom you shall so make known to him, and this writ. Witness Sir *William Draper Best* knight, &c. (457.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, to wit, in — term last past, (or, "in the — year of our reign,") by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us, of a plea of trespass on the case, &c. (or, *as the plea is*,) declaring in the same plea against him, for that whereas, &c. (*here recite the declaration*,) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term, (or, "in — term last past," or, "in the — year aforesaid,") it was considered by our said court

(§ 97.)
The like, in
C. P.

Prac. 1117.

(§ 98.)
The like, where
the death hap-
pens after the
issuing, and be-
fore the execu-
tion of the in-
quiry, in K. B.
Prac. 1117.

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before us, that the said *A. B.* ought to recover his damages on occasion of the premises: But because it was unknown to our said court before us, what damages the said *A. B.* had sustained, on occasion of the premises aforesaid; therefore we commanded you, that by the oath of twelve honest and lawful men of your bailiwick, you should diligently inquire what damages the said *A. B.* had sustained, as well on occasion of the premises aforesaid, as for his costs and charges by him about his suit in that behalf expended; and that the inquisition which you should thereupon take, you should send to us at *Westminster*, on — next after — last past, under your seal, and the seals of those by whose oath you should take that inquisition, together with our writ to you thereupon directed; the same day was given to the said *A. B.* at the same place; as by the record and proceedings thereof, remaining in our said court before us at *Westminster* aforesaid, more fully and at large appears: And the said *A. B.* (or, "*C. D.*") after interlocutory judgment had been given in form aforesaid, and before any assessment of damages had been made on our said writ of inquiry, by us to you sent as aforesaid, for the purpose aforesaid, died, having first duly made and published his last will and testament, &c. (or, "*died intestate,*" &c. *as in the last but one* :) wherefore the said *E. F.* executor (or, "*administrator*") as aforesaid, (or, "*the said A. B.*") hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, "*to the said G. H. executor, or administrator, as aforesaid,*") that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *E. F.* executor (or, "*administrator*") as aforesaid, (or, "*by the said A. B.*") according to the form of the statute in such case made and provided, if it shall seem expedient for him; and further to do and receive, &c. (*as before, p. 456.*)

(§ 99.)

The like, in
C. P. where the
writ of inquiry
was directed to
a former sheriff.

Prac. 1117.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, to wit, in — term, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by our writ, impleaded *C. D.* &c. (*as in the last precedent but one, to "his damages on occasion of the premises:"*) But because it was unknown to our said court, what damages the said *A. B.* had sustained on occasion thereof, it was commanded to the then sheriff of —, that by the oath of twelve good and lawful men of his bailiwick, he should diligently inquire, what damages the said *A. B.* had sustained, as well on occasion of the premises aforesaid, as for his costs and charges by him about his suit in that behalf expended; and that the inquisition which he should thereupon take, he should make appear to our justices at *Westminster*, on —, under his seal, and the seals of those by whose oath he should take that inquisition; as by the record and proceedings thereof, remaining in our said court at *Westminster* aforesaid, more fully and at large appears: Yet inquisition

of the said damages still remains to be made: And the said *A. B.* (or, "*C. D.*") after interlocutory judgment had been given in form aforesaid, and before any assessment of damages had been made on our said writ of inquiry, by us sent to the said sheriff as aforesaid, for the purpose aforesaid, died, &c. (*as in the last precedent but one, to the end.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, to wit, in — term last past, (or, "in the — year of our reign,") by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our Marshalsea before us, of a plea of trespass on the case, &c. (or, *as the plea is,*) declaring in the same plea against him, for that whereas, &c. (*here recite the declaration,*) to the damage of the said *A. B.* of — *l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term, (or, "in — term last past," or, "in the — year aforesaid,") it was considered by our said court before us, that the said *A. B.* ought to recover his damages, on occasion of the premises: But because it was unknown, &c. (*as in the last precedent but one, to the words "more fully and at large appears:"*) And afterwards, a certain inquisition was taken before you, by the oath of twelve honest and lawful men of your bailiwick, whereby it was found, that the said *A. B.* had sustained damages, on occasion of the premises, to — *l.* besides his costs and charges by him about his suit in that behalf expended, and for those costs and charges to — *l.* And although the said damages have been assessed in form aforesaid, yet final judgment for those damages still remains to be given; and the said *A. B.* (or, "*C. D.*") after interlocutory judgment had been given, and the said damages assessed, in form aforesaid, and before the return of our said writ of inquiry, by us to you sent as aforesaid, for the purpose aforesaid, (or, *if the death happened after the return of the writ of inquiry,* "before final judgment obtained in the said action,") died, having first duly made and published his last will and testament, &c. (or, "died intestate," &c. *as before, p. 474.*); wherefore the said *E. F.* executor (or, "administrator") as aforesaid, (or, "the said *A. B.*") hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, "to the said *G. H.* executor, or administrator, as aforesaid,") that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages aforesaid, in form aforesaid assessed, should not be adjudged to and recovered by the said *E. F.* executor (or, "administrator") as aforesaid, (or, "by the said *A. B.*") according to the form of the statute in such case made and provided, if it shall seem expedient for him; and further to do and receive, &c. (*as before, p. 456.*)

(§ 100.)
The like, where the death happens after the execution, and before the return of the inquiry, in *K. B.*
Prac. 1118.

(§ 101.)
Scire facias, for
 a surviving
 plaintiff, in
 K. B.
Prac. 1119, 20.

George the Fourth, &c. (352.) To the sheriff of —, greeting :
 Whereas *A. B.* and *C. D.* lately in our court before us at *Westminster*,
 by bill without our writ, and by the judgment of the same court, reco-
 vered against *E. F.* &c. (455, 6.) ; whereof the said *E. F.* is convicted, as
 appears to us of record : And afterwards, to wit, on —, at — in your
 county, the said *C. D.* died, and the said *A. B.* then and there survived
 him ; as by the information of the said *A. B.* in our said court before us,
 we have been given to understand : And now, on the behalf of the said
A. B. in our said court before us, we have been informed, that although
 judgment be thereupon given, &c. (*as before*, p. 456.)

(§ 102.)
 The like, against
 a surviving de-
 fendant, in K. B.
Prac. 1120.

George the Fourth, &c. (352.) To the sheriff of —, greeting :
 Whereas *A. B.* lately in our court before us at *Westminster*, by bill with-
 out our writ, and by the judgment of the same court, recovered against
C. D. and *E. F.* &c. (455, 6.) ; whereof the said *C. D.* and *E. F.* are con-
 victed, as appears to us of record : And afterwards the said *E. F.* died,
 to wit, at — in your county, and the said *C. D.* there survived him ;
 as by the information of the said *A. B.* in our said court before us, we
 have been given to understand : And now, on the behalf of the said *A. B.*
 in our said court before us, we have been informed, that although judg-
 ment be thereupon given, &c. (*as before*, p. 456.)

(§ 103.)
 The like, for
 an executor, in
 K. B.
Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting :
 Whereas *A. B.* lately in our court before us at *Westminster*, by bill with-
 out our writ, and by the judgment of the same court, recovered, &c.
 (455, 6.) ; whereof the said *C. D.* is convicted, as appears to us of record :
 And afterwards, to wit, on —, at —, the said *A. B.* died, having
 first duly made and published his last will and testament in writing, and
 thereby constituted and appointed *E. F.* executor thereof ; after whose
 death the said *E. F.* duly proved the said last will and testament of the
 said *A. B.* and took upon himself the burthen of the execution thereof ;
 as by the information of the said *E. F.* in our said court, we have been
 given to understand : And now, on the behalf of the said *E. F.* executor
 as aforesaid, in our said court before us, we have been informed, that al-
 though judgment be thereupon given, yet execution of the damages (*or*,
 “ debt and damages ”) aforesaid still remains to be made to him ; where-
 fore the said *E. F.* executor as aforesaid, hath humbly besought us to pro-
 vide him a proper remedy in this behalf : And we being willing, &c. (*as*
before, p. 456.)

(§ 104.)
 The like, in
 C. P.
Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting :
 Whereas *A. B.* lately in our court, to wit, in the term of —, in the
 — year of our reign, before Sir *William Draper Best* knight and his
 companions, then our justices of the bench at *Westminster*, by the con-
 sideration and judgment of the same court, recovered against *C. D.* &c.
 (*as before*, p. 457.) ; whereof the said *C. D.* is convicted, as by the re-
 cord and proceedings thereof, remaining in our said court before our jus-
 tices at *Westminster* aforesaid, manifestly appears : Yet execution of the
 said judgment still remains to be made : And afterwards, to wit, on —,

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at —, the said *A. B.* died, &c. (*as in the last, to "given to understand:"*) And because we are willing, &c. (*as before, p. 457.*) to shew, &c. (*id.*) why the said *E. F.* executor as aforesaid, ought not to have execution, &c. (*id.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (*or, "in the — year of our reign,"*) by the consideration and judgment of the same court, recovered, &c. (*as before, p. 458.*) ; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us : And although the said judgment be rendered, yet execution thereof still remains to be made ; and afterwards, to wit, on —, at —, the said *A. B.* died, &c. (*as in the last but one, to "given to understand:"*) And we being willing, &c. (*as before, p. 458.*) to shew, &c. (*id.*) why the said *E. F.* executor as aforesaid, ought not to have execution, &c. (*id.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (455, 6.) ; whereof the said *C. D.* is convicted, as appears to us of record : And after the obtaining of the verdict, upon which the said judgment was so given as aforesaid, and within two terms before the entry of the said judgment, to wit, on —, at —, the said *A. B.* died, &c. (*as before, p. 478. § 103.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (455, 6.) ; whereof the said *C. D.* is convicted, as appears to us of record : And afterwards the said *C. D.* died, &c. (*as before, p. 478. to the words "execution thereof;"*) as by the information of the said *A. B.* in our said court before us, we have been given to understand : And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (*or, "debt and damages"*) aforesaid still remains to be made to him ; wherefore, &c. (456.) : And we being willing, &c. (*id.*) command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* executor as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages (*or, "debt and damages"*) aforesaid, to be levied of the goods and chattels, which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* as executor as aforesaid to be administered, according to the force form and effect of the said recovery, if it shall seem expedient for him ; and further to do and receive, &c. (*as before, p. 456.*)

(§ 105.)
The like, in the
Exchequer.
Prac. 1119.

(§ 106.)
The like, where
the plaintiff
died after ver-
dict, and before
judgment, in
K. B.
Prac. 1116, 17.

(§ 107.)
The like, against
an executor, in
K. B.
Prac. 1119.

(§ 106.)
The like, in
C. P.

Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court, to wit, in — term, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* &c. (*as before*, p. 457.) ; whereof the said *C. D.* is convicted, &c. (*id.*) Yet execution of the said judgment still remains to be made : And afterwards the said *C. D.* died, &c. (*as before*, p. 478. *to the words*, “ execution thereof ; ”) as by the information, &c. (457.) : And because we are willing, &c. (*id.*) to shew, &c. (*as in the last*,) if it shall seem expedient, &c. (457.) and have there the names, &c. (*id.*) and this writ. Witness Sir *William Draper Best* knight, &c. (457.)

(§ 109.)
The like, in the
Exchequer.

Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (*or*, “ in the — year of our reign, ”) by the consideration and judgment of the same court, recovered, &c. (*as before*, p. 458.) ; whereof the said *C. D.* is convicted, &c. (*id.*) : And although the said judgment be rendered, yet execution thereof still remains to be made : And afterwards the said *C. D.* died, &c. (*as before*, p. 478. *to the words*, “ execution thereof ; ”) as by the information, &c. (458.) : And we being willing, &c. (*id.*) to shew, &c. (*as in the last but one*,) if it shall seem expedient, &c. (458.) : And in what manner, &c. (*id.*)

(§ 110.)
The like, for
an administrator,
in K. B.

Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* &c. (455, 6.) whereof the said *C. D.* is convicted, as appears to us of record : And afterwards, to wit, on —, at —, the said *A. B.* died intestate ; after whose death, to wit, on —, at —, administration of all and singular the goods chattels and credits, which were of the said *A. B.* at the time of his death, by *William* by divine providence archbishop of *Canterbury*, primate of all *England* and metropolitan, in due form of law was granted to *E. F.* as by the information of the said *E. F.* in our said court before us, we have been given to understand : And now, on the behalf of the said *E. F.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (*or*, “ debt and damages ”) aforesaid still remains to be made to him ; wherefore the said *E. F.* administrator as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf : And we being willing, &c. (*as before*, p. 456.)

(§ 111.)
The like, in
debt *qui tam*,
where the plain-
tiff died after
verdict, and be-
fore judgment,
in K. B.

Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* who sued as well for us as for himself in that behalf lately in our court before us at *Westminster*, by bill without our writ, and by the consideration and judgment of the same court, recovered against *C. D.* a certain debt of — *l.* that is to say, one moiety thereof

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for our use, and the other moiety thereof for himself the said *A. B.* who sued as aforesaid, and also — *l.* which in the same court were adjudged to the said *A. B.* who sued as aforesaid, and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him about his suit in that behalf expended ; whereof the said *C. D.* is convicted, as appears to us of record : And after the obtaining of the verdict, upon which the said judgment was so given as aforesaid, and within two terms before the entry of the said judgment, to wit, on —, at — aforesaid, the said *A. B.* who sued as aforesaid, died intestate : After whose death, &c. (*as in the last.*) And we being willing, &c. (*as before, p. 456.*) to shew, if he has or knows of any thing to say for himself, why we, and the said *E. F.* administratrix as aforesaid, ought not to have execution against him, of the debt aforesaid, and why the said *E. F.* administratrix as aforesaid, ought not to have execution against him of the costs and charges aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient ; and further to do and receive, &c. (*as before, p. 456. to the end.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court, to wit, in the term of —, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* &c. (*as before, p. 457.*) ; whereof the said *C. D.* is convicted, &c. (*id.*) : Yet execution of the said judgment still remains to be made : And afterwards, to wit, on —, at —, the said *A. B.* died intestate, &c. (*as in the last, to "proper remedy in this behalf :"*) And because we are willing, &c. (*as before, p. 457.*) to shew, &c. (*id.*) why the said *E. F.* administrator as aforesaid, ought not to have execution, &c. (*id.*)

(§ 112.)
The like, in
C. P.
Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* and *E. F.* lately in our court, &c. (*as in the last, to "Yet execution of the said judgment still remains to be made," and then as follows :*) And afterwards, to wit, on —, at —, the said *E. F.* died, and the said *A. B.* then and there survived him ; and afterwards, to wit, on —, at — aforesaid, the said *A. B.* died intestate, &c. (*as in the last.*)

(§ 113.)
The like, for
the administra-
tor of a sur-
viving plaintiff.
Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* &c. (455, 6.) ; whereof the said *C. D.* is convicted, as appears to us of record : And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (*or, "debt and damages"*) aforesaid still remains to be made to him ; and the said *C. D.* is since dead intestate, and administration of all and singular the goods chattels and credits which were of the said *C. D.* at the time of his death, in due form of

(§ 114.)
The like, against
an administrator,
in K. B.
Prac. 1119.

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law was granted to *E. F.* as by the information of the said *A. B.* in our said court, we have been given to understand; wherefore, &c. (456.): And we being willing, &c. (*id.*) command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* administrator as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages (*or*, “debt and damages”) aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* to be administered, according to the force form and effect of the said recovery, if it shall seem expedient for him: and further to do and receive, &c. (*as before*, p. 456.)

(§ 115.)
The like, in
C. P.

Prac. 1119.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court, to wit, in the term of —, in the — year of our reign, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* &c. (*as before*, p. 457.); whereof the said *C. D.* is convicted, &c. (*id.*): Yet execution of the said judgment still remains to be made; and the said *C. D.* is since dead intestate, &c. (*as in the last*, to “proper remedy in this behalf:”) And because we are willing, &c. (*as before*, p. 457.) to shew, &c. (*as in the last*), if it shall seem expedient, &c. (457.); and have there the names, &c. (*id.*) and this writ. Witness, &c. (*id.*)

(§ 116.)
Scire facias
against ter-
nants, in K. B.
Prac. 1121.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* &c. (455, 6.); whereof the said *C. D.* is convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (*or*, “debt and damages”) aforesaid still remains to be made to the said *A. B.*; and the said *C. D.* is since dead, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the tenants of all the lands and tenements in your bailiwick, of which the said *C. D.* or any person or persons in trust for him, was or were seised in fee simple, on — next after —, in — term, in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, that they be before us at *Westminster*, on — next after —, to shew if they have or know of any thing to say for themselves, why the damages (*or*, “debt and damages”) aforesaid ought not to be made of those lands and tenements, and rendered to the said *A. B.* according to the force form and effect of the said recovery, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* and *E. F.* &c. (455, 6.); whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (*or*, “debt and damages”) aforesaid still remains to be made to the said *A. B.*; and the said *C. D.* is since dead, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the heir of the said *C. D.* and also to the tenants of all the lands and tenements in your bailiwick, of which the said *C. D.* or any person or persons in trust for him, was or were seised on — next after —, in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, and also to the said *E. F.* that they be before us, on — next after —, that is to say, the said heir and tenants to shew if they have or know of any thing to say for themselves, why the damages (*or*, “debt and damages”) aforesaid ought not to be levied on a moiety of those lands and tenements, and the said *E. F.* to shew if he has or knows of any thing to say for himself, why the damages (*or*, “debt and damages”) aforesaid ought not to be levied on the goods and chattels of him the said *E. F.* (except his oxen and beasts of the plough,) and also a moiety of all the lands and tenements of which the said *E. F.* or any person or persons in trust for him, was or were seised in fee simple, on the said — next after —, in the — year aforesaid, on which day the judgment aforesaid was given, or at any time after, according to the force form and effect of the recovery aforesaid, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* deceased lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* and *E. F.* — *l.* for his damages, (*or*, “a certain debt of — *l.*”) &c. (455, 6.); whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And whereas for having execution of the judgment aforesaid, we lately by our writ commanded our sheriff of —, that of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he should cause to be made the damages (*or*, “debt and damages”) aforesaid; and that he should have that money, &c. (*as in a fieri facias*;) And our said sheriff of — at that day returned to us, that by virtue of the said writ to him directed, he had caused to be made of the goods and chattels of the said *C. D.* and *E. F.* the sum of — *l.* parcel of the damages (*or*, “debt and damages”) aforesaid, which money he had ready before us, at the day and place in the

(\$ 117.)

The like, against a surviving defendant, and the heir and tenants of another, in K. B.

Prac. 1121.
1124.

(\$ 118.)

Scire facias for the residue, by an executor or administrator, against the heirs and tenants of several defendants, in K. B.

Prac. 1121.
1124.

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said writ mentioned, to be rendered to the said *A. B.* in part satisfaction of his damages (*or*, “debt and damages”) aforesaid; and that the said *C. D.* and *E. F.* had not, nor had either of them, any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (*or*, “debt and damages”) aforesaid, or any part thereof: And although judgment be thereupon given, yet execution for — *l.* being the residue of the damages (*or*, “debt and damages”) aforesaid, still remains to be made; and as well the said *A. B.* as the said *C. D.* and *E. F.* after the giving of the judgment aforesaid respectively died, as by the information of *G. H.* executor of the last will and testament of the said *A. B.* (*or*, “administrator of all and singular the goods, chattels and credits, which were of the said *A. B.* deceased, at the time of his death, who died intestate,” *or*, “with the will of the said *A. B.* annexed,”) we are given to understand; wherefore the said *G. H.* executor (*or*, “administrator”) as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to *E. D.* the son and heir of the said *C. D.* and the tenants of all and singular the lands and tenements in your bailiwick, whereof the said *C. D.* on the — day of —, in the — year of our reign, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said — *l.* ought not to be made of those lands and tenements, and rendered to the said *G. H.* executor (*or*, “administrator”) as aforesaid, for the residue of the damages (*or*, “debt and damages”) aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him; and also that by honest and lawful men of your bailiwick, you make known to the heir and tenants of all and singular the lands and tenements in your bailiwick, whereof the said *E. F.* on the said — day of —, in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on the said — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said — *l.* ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. H.* executor (*or*, “administrator”) as aforesaid, for the residue of the damages (*or*, “debt and damages”) aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him; and further to do and receive what our said court before us shall then and there consider of the said several and respective heirs and tertenants in this behalf: And have there then the names of those by whom you shall so make known to them, and this writ. Witness, &c. (456.)

To *I. K.* and *L. M.* my bailiffs.

— (to wit.) Summon *C. D.* that he be before the lord the king (or, *in C. P.* “before his majesty’s justices,” or, *in the Exchequer*, “before the barons of the king’s Exchequer”) at *Westminster*, on —, to shew if he hath or knoweth of any thing to say for himself, why *A. B.* (or, *in the Exchequer*, “*A. B.* the king’s debtor,”) should not have execution against him, for — *l.* damages, according to the force, form and effect of a recovery, whereof he was convicted. Dated the — day of — 18—.

— Esquire, sheriff.

By virtue of this writ, to me directed, by *G. H.* and *I. K.* honest and lawful men of my bailiwick, I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained; to shew, &c. as by the said writ he is required, and as I am within commanded.

The answer of —, sheriff.

The within-named *C. D.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *C. D.* found in the same.

The answer, &c. (*as above.*)

By virtue of this writ to me directed, by *G. H.* and *I. K.* honest and lawful men of my bailiwick, I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained, to shew, &c. as by the said writ he is required, and as I am within commanded: But the within-named *E. F.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *E. F.* found in the same.

The answer, &c. (*as above.*)

The within-named *E. F.* has no goods or chattels, which were of the within-named *C. D.* deceased at the time of his death, in the hands of the said *E. F.* to be administered, in my bailiwick, whereof I can cause to be made the damages (or “debt and damages”) within written, or any part thereof; but the said *E. F.* after the death of the said *C. D.* had divers goods and chattels, which were of the said *C. D.* at the time of his death, in his hands to be administered, to the value of the damages (or, “debt and damages”) within written; which said goods and chattels the said *E. F.* afterwards, and before the coming of this writ to me, sold, wasted, eloiigned, and converted to his own use, as appears by a certain inquisition taken before me in this behalf, on the oath of honest and lawful men of my said bailiwick, and to this writ annexed: And I further certify, that the said *E. F.* hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is he found in the same. The residue of the execution of this writ appears in a certain inquisition hereunto annexed. The answer, &c. (*as above.*)

An inquisition indented, taken at —, on the — day of —, in the — year of the reign of our sovereign lord *George the Fourth*, now king of the united kingdom of *Great Britain and Ireland*, &c. before —, sheriff of the county aforesaid, by virtue of a writ of our said lord the king directed to the said sheriff, and to this inquisition annexed, to inquire of and upon certain matters in the said writ contained and specified,

(§ 119.)
Summons, on
scire facius.
Prac. 1123.

(§ 120.)
Return of *scire*
faci.
Prac. 1124.

(§ 121.)
Return of *nihil*.
Prac. 1124.

(§ 122.)
Scire faci as to
one, and *nihil*
as to another.
Prac. 1124.

(§ 123.)
Return to *scire*
faci inquiry.
Prac. 1114. (c.)

(§ 124.)
Inquisition
thereon.
Prac. 1114.

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by the oath of *G. H.* (&c.) honest and lawful men of the bailiwick of the said sheriff, who upon their oath aforesaid say, that *E. F.* in the said writ named, after the death of the said *C. D.* in the said writ also named, had divers goods and chattels, which were of the said *C. D.* at the time of his death, in the hands of him the said *E. F.* to be administered, to the value of the damages (or, "debt and damages") in the said writ specified; which said goods and chattels the said *E. F.* hath sold, wasted, eloiigned and converted to his own use. In witness whereof, as well the said sheriff, as the jurors aforesaid, have caused their seals to be affixed to this inquisition, the day and year above-mentioned.

(§ 125.)
Return of *nihil*,
to *scire facias*
against an heir
and tertenants.
Prac. 1124.

I do hereby certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof the within-named *C. D.* on the day of giving the within-mentioned judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am commanded.

The answer, &c. (485.)

The execution of this writ appears in the schedule, hereto annexed.

The answer, &c. (485.)

(§ 126.)
Nihil as to the
heir, and *scire*
feci to the ter-
tenants of one
defendant; and
nihil as to the
heir and ter-
tenants of an-
other.

Prac. 1124.

I. K. in the annexed writ named, hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is the said *I. K.* found in the same: And I have, by — and — good and lawful men of my bailiwick, given notice to *L. M.* tenant of — messuages, &c. (*describing them*.) with the appurtenances, in the parish of —, in my bailiwick, also to *N. O.* tenant of — acres of land, &c. (*describing the lands*.) with the appurtenances, in the said parish of —, in my bailiwick, which were the messuages, lands and tenements of the said *C. D.* in the said writ named, in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and after was seised in fee-simple, to be before the lord the king, at the day and place in the said writ contained, to shew in manner therein mentioned: And I do hereby further certify, that there are no tenants, nor is there any tenant, of any other lands or tenements in my bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded: And I do hereby also certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof *E. F.* in the annexed writ named, on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded.

The answer, &c. (485.)

(§ 127.)
Alias scire fa-
cias.

Prac. 1124.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the former writ, inserting these words, after the return to the sheriff, "as before we have commanded you," and altering the teste and return.*)

Rule for judgment on *scire facias*.

B. against D. (§ 128.)

E. F. plaintiff's attorney. Precipe for rule for judgment, in K. B.

— 18—.

B. } Unless something be said to the contrary, on — the — day (§ 128. a.)
v. } of — instant, let judgment be entered on the *scire facias*. Form of rule thereon.
D. } By the Court. *Prac.* 483.

As yet of — term, in the — year of the reign of king *George the Fourth*. Witness *Charles Lord Tenterden*.

(*In the Exchequer, begin with the placita, as before, p. 71.*)

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Fourth, &c. (here copy the scire facias to the end, and proceed as follows:)* At which day, before our said lord the king at *Westminster*, comes (or, *in the Exchequer*, “At which day comes here,”) the said *A. B.* in his proper person; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, that by — and —, honest and lawful men of his bailiwick, he has given notice to the said *C. D.* to appear before our said lord the king, (or, *in the Exchequer*, “before the barons of his majesty’s Exchequer,”) at the day and place in the said writ contained, to shew cause as by the said writ he is required, and as the said sheriff is therein commanded; and the said *C. D.* although on that day solemnly demanded, comes not, but makes default: Therefore it is considered, that the said *A. B.* have his execution against the said *C. D.* of the damages (or, “debt and damages”) aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* &c.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Fourth, &c. (here copy the first scire facias to the end, and proceed as follows:)* At which day, before our said lord the king at *Westminster*, came (or, *in the Exchequer*, “At which day comes here,”) the said *A. B.* in his proper person; and the sheriff, to wit, —, sheriff of — aforesaid, thereupon returned to our said lord the king, that the said *C. D.* had not any thing in his bailiwick, where or by which he could make known to him, as by the said writ he was commanded, nor was he found in the same; and the said *C. D.* came not: Therefore, as before, it was commanded to the sheriff, that by honest and lawful men of his bailiwick, he should make known to the said *C. D.* that he should be before our said lord the king (or, *in the Exchequer*, “before the barons of the Exchequer of our said lord the king”) at *Westminster*, on —, (*the return of the alias*), to shew in form aforesaid, if, &c. and further, &c.; the same day was given to the said *A. B.* there, &c.: At which day, before our said lord the king at *Westminster*, comes (or, *in the Exchequer*, “At which day comes here,”) the said *A. B.* in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can make known to him, as by the said last-mentioned writ he is commanded, nor is he found in the same; and the said *C. D.*

(§ 130.) The like, upon two *nihil*s returned, in the King’s Bench or Exchequer. *Prac.* 1126.

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although on that day solemnly called, comes not, but makes default : Therefore it is considered, that the said *A. B.* have his execution against the said *C. D.* for the damages (*or*, “ debt and damages ”) aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* &c.

(§ 131.)
Entry of proceedings, and judgment by default in *scire facias*, upon the return of *scire feci*, in C. P.
Prac. 1126.

— (to wit.) The sheriff was commanded, whereas *A. B.* lately in the court of the lord the king here, to wit, in — term, in the — year of his reign, before Sir *William Draper Best* knight and his companions, then his majesty’s justices of the bench here, to wit, at *Westminster*, by the consideration and judgment of the same court, recovered, &c. (*reciting the writ of scire facias, to the following words*, “ as on the information of the said *A. B.* the said lord the king hath been given to understand ; ”) and because, &c. that by honest, &c. he should make known to the said *C. D.* that he be here at this day, to wit, on —, to shew if any thing, &c. why the said *A. B.* ought not to have execution of the damages (*or*, “ debt and damages ”) aforesaid, according to the force, form and effect of the said recovery, if, &c. And now here at this day, comes the said *A. B.* by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid ; and the said *C. D.* although on that day solemnly demanded, comes not ; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, that by — and —, honest and lawful men of his bailiwick, he has made known to the said *C. D.* that he be here, on the day in the said writ mentioned, to shew cause as by the said writ he is required, and as the said sheriff is therein commanded : And hereupon the said *A. B.* prays execution against the said *C. D.* of the damages (*or*, “ debt and damages ”) aforesaid, according to the force, form and effect of the said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *C. D.* of the damages (*or*, “ debt and damages ”) aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* &c.

Judgment signed, &c.
(186.)

(§ 132.)
The like, on return of *nihil*, in C. P.*
Prac. 1126.

— (to wit.) The sheriff was commanded, &c. (*as in the last, to the end of the recital of the first writ of scire facias, and then as follows :*) And now here at this day, comes the said *A. B.* by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid ; and the said *C. D.* although on that day solemnly demanded, comes not ; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, that the said *C. D.* hath nothing in his bailiwick, where or by which he can make known to him, as by the said writ he is commanded, nor is the said *C. D.* found in the same : And hereupon the said *A. B.* prays execution against the said *C. D.* of the damages (*or*, “ debt and damages ”) aforesaid, according to the force, form and effect of the

* In the Common Pleas, if a *scire facias* issue upon a judgment for debt or damages against the defendant himself, who was party and privy to the judgment, and the sheriff return *nihil*, and the defendant make default, there shall be judgment against him, without awarding a second *scire facias*. *Dyer*, 168. a. 2 Inst. 472. 2 Salk. 599. Com. Dig. tit. Pleader, 3 L. 8. *Prac.* 1125.

said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *C. D.* of the damages (or, “debt and damages”) aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* &c.

Judgment
signed, &c.
(186.)

(*As in the last, to the end of the sheriff's return of nihil to the first scire facias, and then as follows:*) Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *C. D.* that he be here at this day, to wit, on —, to shew in form aforesaid, if, &c. At which day, comes here the said *A. B.* by his said attorney, and offers himself, on the fourth day, against the said *C. D.* in the plea aforesaid; and the said *C. D.* although on that day solemnly demanded, comes not; and the said sheriff, as before, now here returns, that the said *C. D.* hath nothing in his bailiwick, where or by which he can make known to him, as by the said last-mentioned writ he is commanded, nor is the said *C. D.* found in the same: And hereupon the said *A. B.* prays execution, &c. (*as in the last, to the end.*)

(§ 132. a.)
The like, on
two *nihil*s re-
turned the same
term, in C. P.
Prac. 1126.

For the mode of entering the proceedings, when the writs are returnable in different terms, *vide ante*, p. 442.

— (to wit.) The sheriff was commanded, &c. (*as in the last, to the end of the second return of nihil, and then as follows:*) And hereupon the said *A. B.* prays execution against the said *E. F.* executor as aforesaid, of the damages (or, “debt and damages”) aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* as executor as aforesaid, to be administered, according to the force, form and effect of the said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* executor as aforesaid, of the debt (or, “debt and damages”) aforesaid, to be levied in form aforesaid, by the default of the said *E. F.* &c.

(§ 133.)
The like, against
an executor, in
C. P.
Prac. 1126.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Fourth*, &c. (*here copy the scire facias to the end, and proceed as follows:*) At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or, “administrator”) as aforesaid, in his proper person; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by the said writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* comes not, but makes default: Therefore, as before, the sheriff is commanded, that by good and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king at *Westminster*, on — next after —, to shew in form aforesaid, if, &c. and further, &c.; the same day is given to the said *E. F.* executor (or, “administrator”) as aforesaid, at the same place: At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or, administrator) as aforesaid, in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any

Judgment
signed, &c.
(186.)

(§ 134.)
The like, by
an executor or
administrator,
on the statute
8 & 9 W. III.
c. 11. § 6. in
K. B.
Prac. 1117.

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thing in his bailiwick, where or by which he can give him notice, as by the said last-mentioned writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* being solemnly demanded, comes not, but makes default: And hereupon the said *E. F.* executor (*or*, administrator) as aforesaid, prays that the damages in the said action may be assessed, and recovered by him the said *E. F.* executor (*or*, administrator) as aforesaid, according to the form of the statute in such case made and provided: Therefore it is considered, that the damages aforesaid be assessed, and recovered by the said *E. F.* executor (*or*, administrator) as aforesaid, according to the form of the statute aforesaid, by the default of the said *C. D.* &c.: And because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* in his life-time sustained, on occasion of the premises, therefore the sheriff is commanded, that by the oath of twelve honest and lawful men of his bailiwick, he diligently inquire,* what damages the said *A. B.* in his life-time sustained, as well by reason of the premises, as for his costs and charges by him laid out about his suit in this behalf; and the inquisition which the said sheriff shall thereupon take, he make appear to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed; the same day is given to the said *E. F.* executor (*or*, administrator) as aforesaid, at the same place: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *E. F.* executor (*or*, administrator) as aforesaid, in his proper person; and the sheriff of — aforesaid now here returns, a certain inquisition indented, taken before him, at —, on — the — day of —, in the — year of the reign of our said lord the king, by the oath of twelve honest and lawful men of his bailiwick; by which it is found, that the said *A. B.* in his life-time sustained damages, by reason of the premises, besides his costs and charges by him laid out about his suit in this behalf, to — *l.* and for those costs and charges to —. Therefore it is considered, that the said *E. F.* executor (*or*, administrator) as aforesaid, do recover against the said *C. D.* the damages aforesaid, by the said inquisition in form aforesaid assessed, and also — *l.* for the costs and charges of this suit, by the court of our said lord the king now here adjudged of increase to the said *E. F.* executor (*or*, administrator) as aforesaid, and with his assent; which said damages costs and charges in the whole amount to — *l.*; and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

(§ 185.)
Docket paper,
in *K. B.* when
the *scire facias*
are returnable
the same term.
Prac. 1126.

The entry of *E. F.* gentleman, one, &c. of the term of —, — *Geo.*
IV. 18—.

<i>Middlesex</i> , Entry of two <i>scire facias</i> , in debt,	}	<i>Roll</i> —.
between <i>A. B.</i> plaintiff and <i>C. D.</i> de-		
fendant, for — <i>l.</i> debt, and — da-		
gages.		

Middlesex, Entry of one *scire facias*, in debt, }
 between *A. B.* plaintiff and *C. D.* de- }
 fendant, with an award of the second, }
 for — *l.* debt, and — damages.

Scire facias, to revive.

Middlesex, *A. B.* plaintiff, } *Roll*
C. D. defendant. } —.

(§ 136.)
 The like, when
 they are return-
 able in different
 terms.

Prac. 1126.

(§ 137.)
 Entry on docket
 roll, in *C. P.*

Prac. 1126.

B. against *D.*

(§ 138.)

I appear for the defendant, upon the writ of *scire facias* issued in this cause.

Your's, &c.

Note of ap-
 pearance, in
K. B. by *bill.*
Prac. 1127.

To Mr. *E. F.*

G. H. attorney.

—18—.

— (to wit.) Appearance for *C. D.* at the suit of *A. B.* to a *scire facias*, (or, “*alias scire facias*,”) returnable on —.

G. H. defendant's attorney.

(§ 139.)
Præcipe for ap-
 pearance, by
original in
K. B. or *C. P.*
Prac. 1127.

—18—.

— term, in the — year of the reign of king *George* the Fourth.

(§ 140.)
 Declaration in
scire facias,
 upon the re-
 turn of *scire*
facti, in the
 King's Bench
 or Exchequer.

Prac. 1127.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Fourth, &c. (*copy the scire facias, and proceed as before, p. 487. to the end of the sheriff's return, and conclude as follows:*) and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* of the damages (or, “*debt and damages*”) aforesaid, according to the force form and effect of the said recovery, &c.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Fourth, &c. (*here copy the scire facias to the end, and proceed as follows:*) At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, &c. (*as before, p. 487.*): and the said *C. D. E. F.* and *G. H.* being solemnly demanded, the said *G. H.* comes in his proper person; but the said *C. D.* and *E. F.* do not, nor does either of them, come, but make default: And hereupon the said *A. B.* prays that execution may be adjudged to him, for the damages (or, “*debt and damages*”) aforesaid, according to the force form and effect of the said recovery, &c.: But because it is convenient that there should be but one award of execution in this behalf, therefore let all further proceedings against the said *C. D.* and *E. F.* be stayed, until it shall be determined, whether execution ought to be awarded against the said *G. H.* &c.

(§ 141.)
 The like, against
 three defend-
 ants, where one
 appears, and the
 others make
 default, in *K. B.*
Prac. 1127.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Fourth, &c. (*here copy the scire facias to the end, and proceed as follows:*) At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his

(§ 142.)
 The like, against
 the future effects
 of a bankrupt,
 whose estate
 did not pay, *fif-*

teen shillings
in the pound
under a second
commission, in
K. B.

Prac. 1127.
and see *ante*,
469. n.

attorney; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, &c. (*as before*, p. 487.) and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him against the goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining of his certificate under the said last-mentioned commission of bankrupt, and also against the estate and effects of the said *C. D.* (the tools of trade, the necessary household goods and furniture, and necessary wearing apparel of the said *C. D.* and of his wife and children only excepted,) for the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, &c.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Fourth, &c. (*here copy the first scire facias, and proceed as before*, p. 487. *to the end of the second return of nihil, and conclude as follows* :) and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him against the said *C. D.* of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

(§ 143.)
The like, on
two *nihil*s re-
turned, in the
King's Bench
or Exchequer.

Prac. 1127.

(§ 144.)
The like, to a
county palatine,
in K. B.

Prac. 1127.

— (to wit.) Our lord the king sent to his chancellor of his county palatine of *Lancaster*, his writ close in these words, that is to say: *George* the Fourth, &c. (*here copy the first scire facias to the end, and proceed as follows* :) At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the chancellor, to wit, the right honourable —, chancellor of the said county palatine, returned to our said lord the king, that by virtue of the said writ to him directed and delivered, by another writ under the seal of the said county palatine of *Lancaster* duly made, and directed to the sheriff of the said county, the said chancellor had commanded the said sheriff, as he was by the said first-mentioned writ commanded; which said sheriff, to wit, —, in answer to the said writ to him directed, said, that the said *E. F.* had not any thing in his bailiwick, where or by which he could give him notice, as by the said last-mentioned writ he was commanded, nor was the said *E. F.* found in the same: Therefore, as before, it was commanded to the said chancellor, that by another writ under the seal of the said county palatine to be duly made, and directed to the sheriff of the said county palatine, the said chancellor should command the same sheriff, that by good and lawful men of his bailiwick, he should make known to the said *E. F.* that he should be before our said lord the king at *Westminster*, on —, to shew in form aforesaid, if, &c. and further, &c.; the same day was given to the said *E. F.* there, &c. At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the said chancellor of the said county palatine, as before, returned to our said lord the king, that by virtue of the said last-mentioned writ to him directed and delivered, by another writ under the seal of the said county palatine of *Lancaster* duly made, and directed to the sheriff

of the said county, the said chancellor had commanded the said sheriff, as he was by the same writ commanded: which said sheriff, to wit, the said —, in answer to the said last-mentioned writ to him directed, said, that the said *E. F.* had not any thing in his bailiwick, where or by which he could give him notice, as by the said last-mentioned writ he was commanded, nor was the said *E. F.* found in the same; and the said *E. F.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

In the Common Pleas.

— term, &c. (491.)

— (to wit.) The sheriff was commanded, &c. (*as before*, p. 488. *to the end of the sheriff's return, and conclude as follows:*) and the said *C. D.* at that day, being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him against the said *C. D.* of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

In the Common Pleas.

— term, &c. (491.)

— (to wit.) The sheriff was commanded, &c. (*as before*, p. 488. *to the end of the second return of nihil, and conclude as follows:*) and the said *C. D.* at that day, being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

And hereupon the said *E. F.* executor as aforesaid, prays that the damages in the said action may be assessed, and recovered by him the said *E. F.* according to the form of the statute in such case made and provided, &c. And the said *E. F.* brings into court here the letters testamentary of the said *A. B.* deceased, whereby it fully appears to the said court here, that the said *E. F.* is executor of the last will and testament of the said *A. B.* and hath execution thereof, &c.

And hereupon the said *E. F.* executor as aforesaid, prays that execution may be adjudged to him against the said *C. D.* of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c. (*Profert in curiâ of the letters testamentary, as in the last.*)

And hereupon the said *E. F.* administrator as aforesaid, prays that execution may be adjudged to him against the said *C. D.* of the damages (*or*, “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.: And he brings into court here, the letters of administration of the said archbishop, (*or*, “bishop,” &c.) which give sufficient evidence to the said court here, of the grant of administration aforesaid to the said *E. F.* in form aforesaid, the date whereof is the day and year in that behalf above-mentioned, &c.

(§ 145.)

The like, upon the return of *scire feci*, in C. P.

Prac. 1128.

(§ 146.)

The like, upon two *nihil*s returned, in C. P.

Prac. 1128.

(§ 147.)

The like, by an executor, on statute 8 & 9 W. III. c. 11. § 6.

Prac. 1127, 8.

(§ 148.)

The like, by an executor, where plaintiff died after final judgment.

Prac. 1127, 8.

(§ 149.)

The like, by an administrator.

(§ 150.)
The like, against
an executor, or
administrator.
Prac. 1127, 8.

(As before, § 143. to the prayer of execution, which is as follows:)
And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* as executor (or, "administrator") as aforesaid, for the damages (or, "debt and damages") aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, according to the force form and effect of the said recovery, &c.

(§ 151.)
Declaration in
scire facias for
the residue, by
an executor or
administrator,
against the
heirs and ter-
tenants of sev-
eral defend-
ants; where
the heir of one
defendant ap-
pears, and the
tertenants
make default,
on the return
of *scire feci*;
and two *nilhils*
are returned,
as to the heir
and tertendants
of the other
defendant, in
K. B.
Prac. 1127, 8.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Fourth, &c. (here copy the first writ of scire facias to the end, and proceed as follows:)* At which day, before our said lord the king at *Westminster*, comes the said *G. H.* executor (or, "administrator") as aforesaid, by — his attorney; and the sheriff, to wit, — sheriff of — aforesaid, thereupon certifies and returns to our said lord the king, that *I. K.* in the said writ named, had nothing in his bailiwick, &c. (*here recite the sheriff's return, for which vide ante, p. 486.*): And the said *I. K.* at the same day, being solemnly demanded, comes by — his attorney; but the said *L. M. &c. (the tertendants,)* although solemnly demanded, come not, but make default: Therefore it is considered, that the said *G. H.* executor (or, "administrator") as aforesaid, have his execution against the said *I. M. (&c.)* of the said — *l. residue* of the damages (or, "debt and damages") aforesaid, to be levied of the messuages, lands and tenements, whereof they are returned tenants as aforesaid, according to the force form and effect of the said recovery, by the default of the said *L. M. (&c.)*: But let the said execution be stayed, until it be determined, whether the said *G. H.* executor (or, "administrator") as aforesaid, ought to have execution against the said *I. K.* of the said — *l. residue*, &c. And the heir and tenants of all and singular the lands and tenements whereof the said *E. F.* was seised as aforesaid, although solemnly demanded, come not, but make default: Therefore, as before, the sheriff is commanded, that by honest and lawful men of his bailiwick, he make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *E. F.* on the said — day of —, in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee simple, that they be before our said lord the king at *Westminster*, on — next after —, to shew in form aforesaid, if, &c. and further, &c.; the same day is given to the said *G. H.* executor (or, "administrator") as aforesaid, and also to the said *I. K.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *G. H.* executor (or, "administrator") as aforesaid, as the said *I. K.* by their respective attornies aforesaid; and the sheriff of — aforesaid now here certifies and returns to our said lord the king, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in his bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the judgment in the said writ mentioned, or ever afterwards, was seised in fee-simple, to whom the said sheriff can make known, as by the said last-mentioned

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.....ed; and the said last-mentioned heir and tenants, although solemnly demanded, come not, but again make default: And hereupon the said G. H. executor (or, "administrator") as aforesaid, prays that execution may be adjudged to him against the said I. K. of the said —l. residue of the damages (or, "debt and damages") aforesaid, to be levied of the lands and tenements whereof the said C. D. on the said — day of —, in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, and which have descended and come to the said I. K. as the heir of the said C. D. according to the force form and effect of the said recovery, &c.

And the said A. B. inasmuch as he cannot deny the several matters above pleaded by the said C. D. but admits the same to be true, prays judgment, and that execution may be adjudged to him of the damages aforesaid, to be levied, as to —l. part thereof, of the goods and chattels so as aforesaid acknowledged to be in the hands of the said C. D. to be administered, and as to the residue thereof, to be levied of the goods and chattels which were of the said E. F. at the time of his death, and which shall hereafter come to the hands of the said C. D. to be administered, according to the force form and effect of the said recovery: Therefore it is considered, that the said A. B. have his execution against the said C. D. of the said damages, to be levied in form aforesaid, according to the force form and effect of the said recovery; and the said C. D. in mercy, &c.

The issue in *scire facias* on judgments, is similar to that against bail, for which *vide ante*, p. 446.

(To the end of the demurrer book, and then as follows:) At which day, before our said lord the king at Westminster, come the parties aforesaid, by their respective attornies aforesaid; whereupon all and singular the premises being seen, and by the court here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea by the said C. D. in manner and form aforesaid above pleaded, and the matters therein contained, are not sufficient in law to bar the said A. B. from having execution against the said C. D. for the debt and damages aforesaid, according to the force form and effect of the said recovery: Therefore it is considered, that the said A. B. have execution against the said C. D. for the debt and damages aforesaid, to be levied of the goods and chattels which were of the said E. F. at the time of his death, in the hands of the said C. D. as executor as aforesaid to be administered, according to the force form and effect of the said recovery, &c. And for that it also appears to the said court here, that the said A. B. hath obtained the said award of execution, after demurrer joined in this suit, on the said plea, as aforesaid; it is further considered, that the said A. B. do recover against the said C. D. —l. for his costs and charges by him about his suit in this behalf expended, according to the form of the statute in such case made and provided, to be levied of the goods and chattels which were of the said E. F. at the time of his

(§ 152.)
Replication,
and award of
execution, in
scire facias,
against an exe-
cutor, who
pleaded *plene
administravit
præter*, for the
sum confessed
in part, and
for the residue
of assets *quando
acciderint*.

Prac. 1131. (a.)

(§ 153.)
Judgment for
the plaintiff, on
demurrer to a
plea in *scire fa-
cias*, against an
executor, in
K. B.

Prac. 1131. (a.)

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death, in the hands of the said *C. D.* as executor as aforesaid to be administered, if the said *C. D.* hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then the said —*l.* to be levied of the proper goods and chattels of the said *C. D.*; and that the said *A. B.* have also execution thereof, &c.

For writs of execution, after *scire facias*, by or against executors or administrators, *vide ante*, p. 354, &c.

CHAP. XLIV.

WRITS of ERROR, and FALSE JUDGMENT; and PROCEEDINGS thereon.

— (to wit.) WRIT of error, *coram nobis*, (or, *vobis*,) for *C. D.* at the suit of *A. B.* (or, if by plaintiff, “for *A. B.* against *C. D.*”) on a judgment in case, (or, “of outlawry, in the court of Common Pleas,” or, as the judgment is,) returnable on —. G. H. attorney.

(§ 1.)
Præcipe for writ
of error, *coram*
nobis, or *vobis*.
Prac. 1141.

— 18—.

George the Fourth, &c. (352.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case, (or, “of a certain debt, which the said *A. B.* demanded of the said *C. D.*”) as it is said, which said record and proceedings now remain before us, as it is said, manifest error hath intervened, to the great damage of the said *C. D.* (or, if the writ of error be brought by baron and feme, on a judgment against the feme, “to the great damage of *E. D.* and the said *C.* his wife,”) as by his (or, “their”) complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then the record and proceedings aforesaid being inspected, you cause to be further done thereupon, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

(§ 2.)
Writ of error,
coram nobis.
Prac. 1136.
1142, 3.

George the Fourth, &c. (352.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court, before Sir *William Draper Best* knight and his companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of —, of a plea of trespass on the case, (or, as the plea is,) as it is said, which said record and proceedings, by reason of error happening therein, we have caused to be brought, and the same now remain before us, as it is said, manifest error hath intervened, to the great damage of *E. F.* administrator of all and singular the goods chattels and credits which were of the said *A. B.* who is dead intestate, as it is said; as by the complaint

(§ 3.)
The like, after
an abatement
of a former
writ.
Prac. 1136.
1142, 3.

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of the said *E. F.* we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, &c. (*as before.*)

(§ 4.)
Writ of error,
coram nobis,
for reversing
outlawry, in
K. B.

Prac. 138, 9.
1136.
1142, 3.

George the Fourth, &c. (352.) To our justices assigned to hold pleas before us, greeting: Forasmuch as in the record and process, and also in the publication of an outlawry, published against *C. D.* late of —, in a plea of, &c. (*as in the last,*) whereupon he is outlawed in *London*, (*or, “in the county of —,”*) at the suit of *A. B.* returnable before us, as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing that the said error, if any there be, should be duly amended, and full and speedy justice done to the said *C. D.* in this behalf, do command you, that if the said outlawry be returned before us, as hath been said, then, inspecting the said record and process, you may cause further to be done thereupon, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, &c. (497.)

By Sir Charles Wetherell knight, attor- }
ney general of our lord the king. }

(§ 5.)
The like, *coram*
vobis, for revers-
ing outlawry, in
C. P.

Prac. 138, 9.
1137. 1143.

George the Fourth, &c. (352.) To our right trusty and well beloved Sir William Draper Best knight, our chief justice of the bench, greeting: Forasmuch as in the record and process, and also in the publication of an outlawry, published against *C. D.* late of —, in a plea of, &c. (*as in § 3.*) whereupon he is outlawed in *London*, (*or, “in the county of —,”*) at the suit of *A. B.* returnable before you and your associates, our justices of the bench aforesaid, as it is said, manifest error hath intervened, to the great damage of the said *C. D.*, as by his complaint we are informed: We being willing, &c. (*as in last,*) do command you, that if the said outlawry be returned before you and your associates, our said justices of the bench aforesaid, as hath been said, then, inspecting the said record and process, &c. (*as in last, to the end.*)

(§ 6.)
The like, after
the death of
the outlaw.

Prac. 138, 9.
1137.
1142, 3.

George the Fourth, &c. (352.) To our right trusty and well-beloved Sir William Draper Best knight, our chief-justice of the bench, greeting: Forasmuch as in the record and process, and also in the publication of an outlawry, published against *C. D.* late of — in his life-time, now deceased, whereupon he was outlawed in *London*, (*or, “in the county of —,”*) at the suit of *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace, and also in a plea of trespass on the case, (*or, as the plea is,*) to the damage of the said *A. B.* of —l. as he said, and returnable before you and your associates, our justices of the bench, as it is said, manifest error hath intervened, to the great damage of the said *C. D.* in his life-time, and of *E. F.* and *G. H.* executors of the last will and testament of the said *C. D.* since his death, as by the complaint of the said *E. F.* and *G. H.* executors as aforesaid, we are informed: We, willing that the said

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error, if any there be, should be duly amended, and full and speedy justice done to the said *E. F.* and *G. H.* executors as aforesaid in this behalf, do command you, that if the said outlawry be returned before you and your associates, our said justices of the bench aforesaid, as hath been said, then, inspecting the said record and process, &c. (*as in the last but one.*)

George the Fourth, &c. (352.) To the judges of our court of our palace at *Westminster*, and to each of them, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before you, in the court of our palace aforesaid, without our writ, between *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you send to us, distinctly and openly, under your seal, or the seal of one of you, the record and proceedings of the plaint aforesaid, with all things touching the same, and this writ, so that we may have them on —, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may cause to be further done thereupon, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, &c. (497.)

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: Forasmuch as in the record and process, and also in the giving of judgment, in a plaint which was in our court before our justices at *Lancaster*, by our writ, between *A. B.* and *C. D.* of a plea of trespass upon the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing, &c. (*as in the last,*) do command you, that by our writ, under the seal of the said county, you cause to be given in charge to our justices at *Lancaster*, that if judgment be thereupon given, then they send to you, under their seals, into the Chancery of the said county, the record and process aforesaid, with all things touching the same, which are in their custody, as it is said, on — next ensuing, and our writ, which came to them thereupon: And do you send to us, distinctly and openly, under the seal of the said county, the record and process aforesaid, and this writ, so that we may have them on —, wheresoever we shall then be in *England*, that the record and process aforesaid being inspected, we may cause further to be done thereupon, &c. (*as in the last.*)

— to wit. Writ of error for *C. D.* at the suit of *A. B.* (*or, "for A. B. against C. D."*) on a judgment in case, (*or, as the judgment is,*) in the Common Pleas, returnable on —, wheresoever, &c.

G. H. attorney.

— 18—.

(§ 7.)
Writ of error
from an inferior
court, to the
King's Bench.
Prac. 1137.
1142, 3.

(§ 8.)
The like, from
the county pa-
latine of *Lan-*
caster, to the
King's Bench.
Prac. 1138.
1142.

(§ 9.)
Præcipe for writ
of error, from
the Common
Pleas to the
King's Bench.
Prac. 1141.

(§ 10.)
Writ of error,
from the Com-
mon Pleas to
the King's
Bench.

Prac. 1142, 3.

George the Fourth, &c. (352.) To our right trusty and well-beloved Sir *William Draper Best* knight, our chief-justice of the bench, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before you and your companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of —, of a plea of trespass on the case, (*or, as the plea is,*) manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing, &c. (499.) do command you, that if judgment be thereupon given, then you send to us distinctly and openly, under your seal, the record and proceedings of the plaint aforesaid, with all things concerning the same, and this writ, so that we may have them on —, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, &c. (*as in p. 499. § 7.*)

(§ 11.)
The like, in
debt, *qui tam*.

Prac. 1142, 3.

George the Fourth, &c. (352.) To our right trusty and well-beloved Sir *William Draper Best* knight, our chief-justice of the bench, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before you and your companions, our justices of the bench, by our writ, between *A. B.* who prosecuted as well for us as for himself, and *C. D.* late of —, of a plea that the said *C. D.* should render to us and the said *A. B.* — *l.* as it is said, manifest error hath intervened, &c. (*as in the last.*)

— to wit. Writ of error for *C. D.* at the suit of *A. B.* (*or, "for A. B. against C. D."*) on a judgment in case, (*or, as the judgment is,*) in the King's Bench by bill, returnable on the — day of — next.

G. H. attorney.

— 18—.

(§ 12.)
Præcipe for writ
of error, from
the King's
Bench to the
Exchequer
chamber.

Prac. 1141.

(§ 13.)
Writ of error,
from the King's
Bench to the
Exchequer
chamber.

Prac. 1142, 3.

George the Fourth, &c. (352.) To our right trusty and well beloved *Charles Lord Tenterden*, our chief justice assigned to hold pleas in our court before us, greeting: Whereas by a statute made in the parliament of the Lady *Elizabeth*, late Queen of *England*, held at *Westminster*, the 23d day of *November*, in the twenty-seventh year of her reign, it was, among other things, enacted, by the authority of the same parliament, that "where any judgment should at any time thereafter be given in the court of King's Bench, in any suit or action of debt, detain, covenant, account, action upon the case, *ejectione firmæ*, or trespass, first commenced or to be first commenced there, other than such only where we should be party, the party plaintiff or defendant, against whom any such judgment should be given, might at his election sue forth out of the court of Chancery, a special writ of error, to be devised in the said court of Chancery, directed to the chief justice of the said court of King's Bench for the time being, commanding him to cause the said record, and all things concerning the said judgment, to be brought before the justices of the Common Bench and the barons of the Exchequer, into the Exchequer chamber, there to be examined by the said justices of the Common Bench and barons aforesaid; which said justices of the Common Bench, and such barons of the Exchequer as are of the coif, or six of them at the

least, by virtue of the same act, should thereupon have full power and authority to examine all such errors as should be assigned or found in or upon any such judgment, and thereupon to reverse or affirm the said judgment, as the law should require, other than for errors to be assigned or found for or concerning the jurisdiction of the said court of King's Bench, or for any want of form in any writ, return, plaint, bill, declaration, or other pleading, process, verdict or proceeding whatsoever; and that after the said judgment should be affirmed or reversed, the said record, and all things concerning the same, should be removed and brought back into the said court of King's Bench, that such further proceeding might be thereupon, as well for execution as otherwise, as should appertain;" as in the said statute is more fully contained: And because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; which said error in no wise concerns us, or the jurisdiction of our said court of King's Bench, or any want of form in any writ, return, plaint, bill, declaration or other pleading, process, verdict or proceeding whatsoever, as we are also informed: We therefore, being willing that the said error, if any there be, should according to the form of the statute aforesaid, be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you cause the record and proceedings aforesaid, with all things concerning the same, to be brought before the said justices of the Common Bench and the barons of our said Exchequer, into our Exchequer chamber aforesaid, on — the — day of — next ensuing, that the said justices and barons viewing and examining the record and proceedings aforesaid, may further cause to be done thereupon, for amending the said error, what of right, and according to the form of the statute aforesaid, ought to be done. Witness ourself, &c. (497.)

— (to wit.) Writ of error for *C. D.* at the suit of *A. B.* (*or, if by plaintiff, for A. B. against C. D.*) on a judgment in case, (*or, as the judgment is,*) in the King's Bench, by *original*, (*or, after affirmance or reversal*, "by bill, affirmed in the Exchequer chamber,") returnable immediately, (*or, "at the next session."*)

G. H. attorney.

— 18—.

George the Fourth, &c. (352.) To our right trusty and well beloved *Charles Lord Tenterden*, our chief justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by our writ, between *A. B.* and *C. D.* late of —, of a plea of trespass on the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to

(§ 14.)
Præcipe for writ of error, from the King's Bench to the House of Lords.
Prac. 1141.

(§ 15.)
Writ of error, from the King's Bench to the House of Lords, directly.
Prac. 1142, 3.

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the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then without delay you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our present parliament, (*or, if the parliament be not then sitting*, “at the next session thereof, to wit, on the — day of — next ensuing, to be holden,”) and this writ; that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, with the assent of the lords spiritual and temporal in the same parliament, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, &c. (497.)

(§ 16.)
The like, after
affirmance in
the King's
Bench.
Prac. 1142, 3.

George the Fourth, &c. (352.) To our right trusty and well beloved *Charles Lord Tenterden*, our chief justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before Sir *William Draper Best* knight and his companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of —, of a plea of trespass on the case, (*or, as the plea is*), and also in the affirmance of the same judgment in our court before us, as it is said, manifest error hath intervened, to the great damage, &c. (*as in the last*;) We being willing, &c. (*as in the last*), do command you, that if judgment be thereupon given and affirmed, then you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our parliament, at the next session thereof, to be holden on the — day of — next ensuing, and this writ; that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, &c. (*as in the last*.)

(§ 17.)
The like, after
affirmance in
the Exchequer
chamber.
Prac. 1142, 3.

George the Fourth, &c. (352.) To our right trusty and well beloved *Charles Lord Tenterden*, our chief justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the plea is*), which said record and proceedings, by reason of error happening therein, we caused to be brought before the justices of the Common Bench and the barons of our Exchequer, into our Exchequer chamber, and the judgment thereupon is affirmed, as it is said, manifest error hath intervened, to the great damage, &c. (*as in § 15*;) We being willing, &c. (*id.*) do command you, that if judgment be thereupon given and affirmed, &c. (*as in the last*.)

(§ 18.)
Writ of error,
from the Ex-
chequer of
Pleas.
Prac. 1140.
1142.

George the Fourth, &c. (352.) To our treasurer, and barons of our Exchequer, greeting: Forasmuch as in the record and process, as also in giving judgment, in a plaint, which was before you the said barons, in our court of the said Exchequer, by bill, between *A. B.* our debtor, and *C. D.* of a plea of trespass on the case, (*or, as the plea is*), as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: And whereas by a statute made in the parliament of the lord *Edward the Third*, late king of *England*, holden at *Westminster*, in the thirty-first year of his reign, it was accorded and

established, (amongst other things,) that “ in all cases touching the king, or other persons, where any man complained of error made in process in the Exchequer, the chancellor and treasurer should cause to come before them, in any chamber of council nigh the Exchequer, the record of the process out of the Exchequer, taking to them the justices and other sage persons, such as to them should seem meet to be taken, and should also cause to be called before them the barons of the Exchequer, to hear their informations, and the causes of their judgments ; and thereupon should duly examine the business, and if any error were found, they should correct and amend the rolls, and afterwards send them into the said Exchequer, to make thereof execution as pertained ;” as in the said statute is more fully contained : We therefore, willing that the said error, if any, be amended, according to the form of the said statute, and that full and speedy justice be done to the said parties in this behalf, do command you, if judgment be given thereupon, then you cause the record and process aforesaid, with all things touching the same, to come before our chancellor, and you the said treasurer, into the chamber of council nigh the said Exchequer, called the Council chamber, on — the — day of — next coming ; that the said chancellor, and you the said treasurer, viewing and examining the record and process aforesaid, and hearing your information, you the said barons may, by the advice of the justices and other sage persons aforesaid, cause further to be done in this behalf, as of right, and according to the form of the said statute, shall be meet to be done. Witness ourself, &c. (497.)

George the Fourth, &c. (352.) To the lord high treasurer of *Great Britain*, and to the chief baron of our court of Exchequer in *Scotland*, and the rest of the barons of the same court, greeting : Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before you, in our court of Exchequer in *Scotland*, by bill, between *A. B.* our debtor and *C. D.* of —, of a plea of trespass, touching and concerning our revenue, as it is said, manifest error hath intervened, to the great damage of the said *A. B.* as by his complaint we are informed : And whereas by a statute made in the parliament of the lady *Anne*, late Queen of *Great Britain*, &c. at a session thereof holden at *Westminster* in the county of *Middlesex*, in the sixth year of her reign, intituled “ An act for settling and establishing a court of Exchequer in the North part of *Great Britain* called *Scotland*,” it was (amongst other things) provided and enacted, that “ it should and might be lawful to and for any person or persons, bodies politic or corporate, party or parties to any judgment which should be given in the said court of Exchequer in *Scotland*, his, her or their heirs, executors or administrators, or such other person or persons, bodies politic or corporate, who should be privy to and affected by such judgment, and who by law was or were entitled to bring and maintain a writ or writs of error thereupon, to sue and prosecute out of the court of Chancery in *England*, a writ or writs of error, to be made in the usual manner, upon any such judgment, returnable in the parliament of *Great Britain* ; and such and the like securities, matters

(§ 19.)
The like, from
the Exchequer
in *Scotland*.

Prac. 1140.

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and things, way and method of proceedings, should and might be had therein and thereupon, and relating thereunto, as had been, were or might be used and practised, upon or concerning writs of error returnable in parliament, upon any judgment in any of the courts in *England*, and upon or relating to the affirming or reversal of such judgments, and the proceedings thereupon, in like cases ;” as in the said statute is more fully contained : We therefore, being willing that the said error, if any there be, should in due manner be corrected, according to the form of the said statute, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then without delay you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our present parliament, and this writ ; that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, with the assent of the lords spiritual and temporal in the same parliament, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, &c. (497.)

(§ 20.)
Note of allowance of writ of error.

Prac. 1144.

Between } A. B.
and
C. D. Case, (or, Debt, &c.)

I have allowed a writ of error in this cause, this — day of — 18—.

Clerk of the errors.

A. B. plaintiff, &c. (223.)

(§ 21.)
Affidavit of co-verture, to obtain allowance of writ of error, *coram nobis*, or *vobis*.

Prac. 1144.

In the King's Bench.

I. K. of — maketh oath and saith, that he well knows *C. D.* the defendant in this cause, and her husband *E. D.* of — : And this deponent further saith, that the said *C. D.* was at the time of the commencement of this suit married to, and the wife of the said *E. D.* ; and this deponent verily believes that the said *E. D.* is now living, he this deponent having seen and conversed with him, on the — day of this instant, —.

I. K.

Sworn, &c. (175.)

(§ 22.)
Rule of allowance of writ of error, *coram nobis*.

Prac. 486.
1144.

It is ordered, that the writ of error issued between the parties in this cause, be allowed ; and upon the plaintiff in error putting in and justifying his bail within four days next ensuing, that further proceedings be stayed on the judgment in the original action, until the said writ of error now depending between the parties, be determined.

By the Court.

(§ 23.)
The like, of writ of error *coram vobis*, for reversing an outlawry.

Prac. 486.
1144.

In the Common Pleas, &c. (176.)

B. } Upon reading the writ of error, upon the outlawry in this cause,
v. } It is ordered, that the said writ of error be allowed ; and that upon
D. } the plaintiff in error putting in and perfecting bail upon the said writ of error, in such manner as the court here shall direct and appoint, within *four* days, all further proceedings upon the said outlawry do cease, until the said writ of error be determined.

On the motion of Serjeant *E. Lawes*.

By the Court.

In the Common Pleas.

C. D. plaintiff,
v.
A. B. defendant, } in error.

(§ 24.)
Affidavit of
cause of going
beyond sea, to
govern form of
recognizance of
bail.*

Prac. 142.
1144.

C. D. of —, the above-named plaintiff, maketh oath and saith, that he hath sued out and obtained this writ of error, for the purpose of setting aside the judgment of outlawry, which has been obtained against him by the above-named defendant: And this deponent further saith, that he was abroad, in foreign parts and beyond the seas, to wit, at —, in the kingdom of —, before and at the time when the writ of *exigent* was awarded and issued against him in this cause; and that he this deponent remained abroad, in the said parts beyond the seas, from thence until and at and after the time of awarding and issuing the said writ, and pronouncing the judgment of outlawry thereon: And this deponent further saith, that he went abroad, to the said parts beyond the seas, for the purpose of settling his affairs, (*or*, “of transacting his business as a merchant,” *or otherwise, according to the fact*;) and that he did not go abroad, to the said parts beyond the seas, or remain there as aforesaid, for the purpose of avoiding or eluding the process of this honourable court, or of defeating the said outlawry; nor was he this deponent at all aware of any process being sued out against him, at the suit of the said defendant, until after the said judgment of outlawry was so pronounced as aforesaid. C. D.

Sworn, &c. (175.)

In the King's Bench, (*or*, Common Pleas.)

— term, — Geo. IV.

D. } Error from the Common Pleas to the King's Bench, (*or*, from
ats. } the King's Bench to the Exchequer Chamber, *or* House of
B. } Lords.)

(§ 25.)
Note of bail, for
clerk of errors, in
K. B. or C. P.
Prac. 1155.

Judgment for — *l*.

Bail, E. F. of —, and G. H. of —.

L. M. defendant's attorney.

You severally acknowledge to owe A. B. the sum of — *l*. (*double the sum recovered*;) upon condition, that C. D. prosecutes his writ of error with effect; and if judgment be affirmed, shall satisfy and pay the damages and costs (*or*, “debt, damages and costs”) recovered, together with such costs and damages as shall be awarded by occasion of the delay of execution; or else you will do it for him.

(§ 26.)
Recognizance
of bail, on error
coram nobis.
Prac. 1156, (c).

* This affidavit is not absolutely necessary, for obtaining the allowance of the writ of error; it having been holden, that an outlawry may be reversed on a writ of error, though the defendant went abroad for the purpose of avoiding it: 5 Barn. & Cres. 314. 8 Dowl. & Ryl. 208. S. C. and see 1 Moore & P. 135. (b.) but the object of the affidavit is to regulate the bail in error, and induce the court to grant it in the *alternative* form, which allows the bail to render the defendant.

(§ 27.)
Notice of bail
in error, in
K. B. or C. P.
Prac. 1156.

In the King's Bench,
(or, Common Pleas.)

*A. B. against C. D.**

Take notice, that special bail was this day put in, upon the writ of error brought in this cause, with the clerk of the errors, before the honourable Mr. Justice —, at his chambers in *Serjeants' Inn, Chancery Lane, London*; and that the names and descriptions of such bail are *E. F.* of —, and *G. H.* of —. Dated the — day of — 18—.

Your's, &c.

To Mr. *I. K.* plaintiff's attorney.

L. M. defendant's attorney.

(§ 28.)
The like, where
bail is taken
in the absence
of the judges,
on the circuit.
Prac. 1156.

In the King's Bench,
(or, Common Pleas.)

A. B. against C. D.

Take notice, that special bail was this day put in, upon the writ of error brought in this cause, with the clerk of the errors, at the chambers of the honourable Mr. Justice —, in *Serjeants' Inn, Chancery Lane, London*; and that the names and descriptions of such bail are *E. F.* of —, and *G. H.* of —; and in consequence of the judges being on the circuit, the said bail will re-acknowledge before such judge as shall first come to town. Dated, &c. (*as in last.*)

(§ 29.)
Rule for better
bail, in K. B.
or C. P.

Prac. 483.
1157.

A. B. } Unless the plaintiff in the writ of error puts in better bail
v. } within four days next after notice hereof, given to the said plain-
C. D. } tiff or his attorney, execution will issue. —,

Clerk of the errors.

(§ 30.)
Notice of jus-
tification, in
K. B. or C. P.
Prac. 1158. (a).

In the King's Bench,
(or, Common Pleas.)

A. B. against C. D.

Take notice, that the bail already put in upon the writ of error brought in this cause, and of whom you have had notice, will, on — the — day of — next, justify themselves in this honourable court, as good and sufficient bail for the said defendant. Dated, &c. (*as above.*)

Your's, &c.

To Mr. *I. K.* plaintiff's attorney.

L. M. defendant's attorney.

(§ 31.)
Notice of adding
and justifying
bail, in K. B.

Prac. 1158.

In the King's Bench.

A. B. plaintiff, &c. (223.)

Take notice that *J. S.* of —, and *J. T.* of —, will, on — next, add themselves to the bail already put in for the plaintiff in error in this cause; and that they will, at the same time, justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said plaintiff in error. Dated the — day of — 18—.

Your's, &c.

To Mr. *I. K.* plaintiff's attorney,
(or, agent.)

L. M. defendant's attorney,
(or, agent.)

* After a writ of error is brought and allowed, the names of the plaintiff and defendant in the original action are continued in the notices of bail and exception, the rule for better bail, and the rule to certify, until the transcript of the record is carried over, and filed in the King's Bench, or Exchequer Chamber; and then the names of the parties are reversed, and they are called *C. D.* against *A. B.* in error. *Prac.* 1161.

In the King's Bench.

A. B. plaintiff, &c. (223.)

(§ 32.)

Take notice, that *J. S.* of —, will, on — next, add himself to the bail already put in for the plaintiff in this cause; and that he, together with *G. H.* one of the bail already put in for the said plaintiff in error, and of whom you have before had notice, will, at the same time, justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said plaintiff in error. Dated, &c. (as in last.)

Notice of adding one bail, and justifying, in K. B.

Prac. 1158.

— on (or, next after) —, &c. (175.)

A. B. } Upon reading the affidavit of *I. K.* It is ordered, that the bail
v. } put in for the plaintiff in error in this cause, who have this day
C. D. } justified themselves in court, be allowed. Upon the motion of
Mr. Thomas Coltman.

(§ 33.)
Rule of allowance of bail in error, in K. B.
Prac. 1156, 7.

By the Court.

Be it remembered, that on the — day of — in this same term, the right honourable Sir *William Draper Best* knight, chief justice of our lord the king of the bench at *Westminster*, hath delivered here into court, with his own proper hands, a certain recognizance, together with a certain condition of the said recognizance, taken before the honourable Mr. Justice —, to be inrolled of record, and it is inrolled in these words:

(§ 34.)
Entry of recognizance of bail, on error from the Common Pleas to the King's Bench.

Prac. 1101.
1156.

E. F. of, (&c.) and *G. H.* of, (&c.) on the — day of — 18—, came in their own proper persons, before the honourable Mr. Justice —, one of the justices of our lord the king of the bench at *Westminster*, at his chambers in *Serjeants' Inn, Chancery Lane, London*, and acknowledged themselves, and each of them by himself severally did acknowledge himself, to owe to *A. B.* the sum of —*l.* to be levied of their lands and chattels, and of the lands and chattels of each of them, to the use of the said *A. B.*

The condition of this present recognizance is such, that whereas the said *A. B.* lately in his majesty's court of Common Bench at *Westminster*, before Sir *William Draper Best* knight and his brethren, justices of the said court, by the consideration and judgment of the said court, recovered against *C. D.* —*l.* for his damages which he had sustained, on occasion of the not performing, &c. (352.); whereof the said *C. D.* hath been convicted: And whereas the said *C. D.* hath sued out of his majesty's court of *Chancery* at *Westminster*, on the aforesaid judgment, his majesty's writ of error, tested the — day of —, in the — year of his reign, directed to the said Sir *William Draper Best* knight, his said majesty's chief justice of his said court of the bench aforesaid: Now therefore, if the said *C. D.* doth by himself, or his sufficient surety, prosecute the said writ of error with effect, and also doth satisfy and pay unto the said *A. B.* if the said judgment be affirmed, or the said writ of error be discontinued in his default, or he shall be nonsuited therein, the damages aforesaid, already adjudged upon the said judgment, and all costs and damages, to be also awarded for the delay of execution of the said judgment, by means of the said writ of error, then this recognizance to be void, and of no effect, or else to be and remain in full force and virtue.

(§ 35.)
The like, on
error from the
King's Bench
to the Exche-
quer chamber.

Prac. 1101.
1156.

Pleas before our lord the king at *Westminster*, of — term, (*the term bail was put in,*) in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our Lord 18—.

Roll —.

England, to wit. Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, —, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, hath here recorded, that on the — day of —, in the year of our Lord 18—, before the same justice, at his chambers situate in *Scrjeants' Inn, Chancery Lane, London*, came *E. F.* of —, and *G. H.* of —, in their own proper persons, and according to the form of the statute in such case made and provided, acknowledged themselves, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of —*l.* of lawful money of *Great Britain*, to be paid to the said *A. B.* his executors or assigns; and unless they should so do, the said *E. F.* and *G. H.* did grant and agree, that the said —*l.* of their and each of their lands and chattels should be made, and levied to the use of the said *A. B.*

The condition of the above recognizance is such, that whereas the aforesaid *A. B.* lately in the court of our said lord the king before the king himself at *Westminster*, by bill without the writ of our said lord the king, and by the judgment of the same court, recovered against *C. D.* —*l.* for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* hath been convicted, as appears of record in the said court of the said lord the king before the king himself at *Westminster*: And whereas the said *C. D.* hath brought a writ of error upon the judgment aforesaid, returnable before the justices of our said lord the king of the Common Bench, and barons of his Exchequer of the degree of the coif, in the Exchequer chamber, on — the — day of — in the said — year of the reign of our said lord the king: If therefore the said *C. D.* shall prosecute the said writ of error with effect, and also shall satisfy and pay to the said *A. B.* if the said judgment shall be affirmed, or the said writ of error be discontinued in his default, or he shall be nonsuit therein, as well the damages costs and charges aforesaid, adjudged upon the said judgment, as also all such costs charges and damages as shall be awarded to the said *A. B.* for delay of execution of the said judgment, by the prosecution of the said writ of error; then this recognizance to be void, or otherwise to be and remain in full force and virtue.

Be it remembered, that *E. F.* of, (§c.) and *G. H.* of, (§c.) on the — day of —, in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, came before the right

(§ 36.)
The like, on
error from the
Exchequer of
Pleas.

Prac. 1011.
1156. (d).

honourable Sir *William Alexander* knight, lord chief baron of his majesty's court of Exchequer at *Westminster*, at his house situate in *Grosvenor Square*, in the county of *Middlesex*, and acknowledged themselves, and each of them did acknowledge himself, to owe unto *A. B.* debtor of our said lord the king, the sum of —*l.* of lawful money of *Great Britain*, to be paid to the said *A. B.* or his certain attorney, executors administrators and assigns; and if the said *E. F.* and *G. H.* do not pay the same, then they and each of them will and consent, that the said sum of money shall be levied and recovered of the lands and tenements, goods and chattels, of them the said *E. F.* and *G. H.* and each of them, to and for the use of the said *A. B.* his executors administrators and assigns.

The condition of this recognizance is such, that whereas *C. D.* has brought a writ of error upon a judgment recovered against him, in his said majesty's said court of Exchequer at *Westminster*, as of — term last past, in an action upon the case, at the suit of the said *A. B.* for the sum of —*l.* damages, as by the record thereof there remaining, it doth and may more fully appear; which said writ of error is returnable in the chamber of council nigh the said Exchequer, called the Council chamber, on — the — day of — next ensuing: If therefore the said *C. D.* do prosecute the said writ of error with effect, and also pay and satisfy, if the said judgment be affirmed, or the said *C. D.* become nonsuit in the said writ of error, or suffer the same through his default, to be discontinued, to the said *A. B.* his executors administrators or assigns, all and singular the damages aforesaid, recovered by the said judgment, and also all such further costs and damages, as shall be awarded for delay of execution, by reason of the said writ of error, then this recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged, the day, year and	}	<i>E. F.</i>
place first above mentioned, conditionally before me,		<i>G. H.</i>

William Alexander.

Be it remembered, &c. (as in the last; condition as follows:)

The condition of this recognizance is such, that whereas the above-named *A. B.* did, in the term of — last past, recover a judgment in his majesty's court of Exchequer, against *C. D.* in an action upon the case, for —*l.* damages; as by the record thereof, there remaining, it doth and may more fully appear: And whereas the said *C. D.* brought a writ of error upon the said judgment, returnable in the Exchequer chamber, but for want of prosecution thereof, became nonsuit; as by the record thereof, also more fully appears: And whereas the said *C. D.* hath now brought a writ of error, returnable in the high court of parliament, for reversing the said judgment: If therefore the said *C. D.* do prosecute the said last-mentioned writ of error with effect, or, if the said judgment be affirmed by the lords in parliament, do satisfy the said *A. B.* his executors administrators and assigns, as well the said —*l.* as —*l.* costs and damages, allowed to the said *A. B.* for delay of execution, by reason of the said writ of error, returnable in the Exchequer chamber aforesaid,

(§ 37.)
The like, on
error in parliament.
Prac. 1101.
1156. (*d.*)

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and also all such costs and damages, sum and sums of money, as shall be awarded for delay of execution, by reason of the writ of error now brought in parliament, then this recognizance to be void, or else to remain in full force.

Taken and acknowledged, &c. (509.)

E. F.

G. H.

(§ 38.)
Docket paper,
in K. B.

The entry (*or*, further entry) of *I. K.* gentleman, one, &c. of — term, — *George* the Fourth.

England. Entry of recognizance of bail in error, in a cause wherein *A. B.* is plaintiff, and *C. D.* defendant. *Roll* —.

(§ 39.)
Rule to certify
the record, on
error from the
Common Pleas.
Prac. 483.
1158.

In the Common Pleas.

A. B. } Unless the plaintiff in the writ of error brought in this cause,
v. } certifies the record into the court of King's Bench, within *eight*
C. D. } days next after notice hereof to be given to him or his attorney,
a nonsuit will be entered. —,

Clerk of the errors.

(§ 40.)
The like, on
error from the
King's Bench.
Prac. 483.
1158.

In the King's Bench.

A. B. } Unless the plaintiff in the writ of error certifies the record,
v. } within *eight* days next after notice hereof given to the said
C. D. } plaintiff or his attorney, a nonsuit will be entered. —,

Clerk of the errors.

(§ 41.)
Chief-justice's
return, on error
from the
Common Pleas.
Prac. 1160.

The answer of *Sir William Draper Best* knight, the chief justice within named.

The record and proceedings of the plaint, whereof mention is within made, follow in these words, to wit:

Pleas at *Westminster*, before *Sir William Draper Best* knight and his companions, justices of our lord the king of the bench, of the term of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland*, king, defender of the faith. *Roll* —.

— (to wit.) *C. D.* late of —, was attached (*or*, summoned) to answer *A. B.* &c. (*here copy the proceedings, as on the judgment roll.*)

The answer of *Charles Lord Tenterden*, the chief justice within named.

The record and proceedings of the plaint, whereof mention is within made, with all things concerning the same, I certify to the justices and barons within specified, at the day and place within contained, in a certain schedule to this writ annexed, as within I am commanded.

Tenterden.

Pleas before our lord the king at *Westminster*, of the term of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. *Roll* —.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case, (*or*, as the plea is.)

(§ 42.)
The like, on
error from the
King's Bench
to the Exche-
quer chamber.
Prac. 1160.

— (to wit.) *C. D.* puts in his place *G. H.* his attorney, (or, “*C. D.* in person,”) at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, &c. (*here copy the proceedings, as on the judgment roll.*)

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *E. F.* in his proper person; and the said *A. B.* in his proper person also comes, and freely here in court says, that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, did wrongfully and improvidently issue, for this, to wit, that by the writ aforesaid it appears, that the same writ of error was prosecuted by the said *E. F.* as bail for the said *C. D.* in the plaint aforesaid, as well upon the giving of judgment in the plaint aforesaid, between the said *A. B.* and the said *C. D.* as upon the adjudication of execution on the writ of *scire facias*, issuing out of the king's court of record of —, against the said *E. F.* as bail for the said *C. D.* in the same plaint; whereas by the law of the land of *England*, no such writ of error, in the name and at the suit of the said *E. F.* ought to have issued; and for that reason, the said *A. B.* prays that the writ of error, by the said *E. F.* in form aforesaid prosecuted, may be quashed, avoided, and held for nothing: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it is considered, that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, be quashed, avoided, and altogether held for nothing.

For writs of *scire facias quare executionem non*, pending error, *vide ante*, pp. 459, 60.

In the King's Bench.

Between *C. D.* plaintiff,
and } in error.
A. B. defendant,

Rule for judgment, on *scire facias quare executionem non*.

E. F. attorney.

— 18—.

C. D. } Unless something be said to the contrary, on — the — day
v. } of — instant, let judgment be entered on the *scire facias*.
A. B. } By the Court.

In the Exchequer chamber.

C. D. } Unless the plaintiff in the writ of error alleges diminution,
v. } within eight days next after notice hereof given to the said plain-
A. B. } tiff or his attorney, a nonsuit will be entered.

Clerk of the errors.

D. and *B.*

— to assign errors on record.

In the King's Bench.

C. D. } — next after — is given to the plaintiff in error, to assign
v. } errors on record.
A. B. } Entered.

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(§ 43.)
Entry of *cas-
setur brevis*, on
a writ of error
brought *tam in
reditione iudicii*
against the prin-
cipal, *quam in
adjudicatione
executionis*
against the bail.
Prac. 1162.

(§ 44.)
Præcipe for rule
for judgment, on
scire facias, in
the King's
Bench.
Prac. 1166.

(§ 44. a.)
Form of rule
thereon.

(§ 45.)
Rule to allege
diminution, in
the Exchequer
chamber.
Prac. 1167.

(§ 46.)
Master's rule to
assign errors,
and copy thereof
to be served, in
K. B.
Prac. 483.
1168.

(§ 47.)
Rule to assign
errors, in Exche-
quer chamber.
Prac. 1168.

In the Exchequer chamber.

C. D. } Unless the plaintiff in the writ of error assigns error or errors,
v. } within eight days next after notice hereof given to the said plain-
A. B. } tiff or his attorney, a nonsuit will be entered.

—, Clerk of the errors.

—18—.

(§ 48.)
Petition, that
record may be
remitted, on
plaintiff's not
assigning errors,
in House of
Lords.*

Prac. 1168.

To the right honourable the Lords spiritual and temporal, in parliament assembled.

The humble petition of A. B. defendant, in a writ of error in parliament, wherein C. D. is plaintiff.

Sheweth,

That your petitioner, in — term last, obtained a judgment in the court of King's Bench, against the said C. D. for the sum of —*l.* in a certain action of *trespass* on the *case*, (or, as the action is; adding, if the judgment has been affirmed in the Exchequer chamber, "and that the said C. D. thereupon brought a writ of error in the court of Exchequer chamber, and the judgment aforesaid was, in — term last, affirmed by the judges of the Common Pleas and barons of the Exchequer, in the Exchequer chamber aforesaid:") And the said C. D. hath thereupon brought a writ of error in parliament, for the purpose, as your petitioner is advised and verily believes, of delaying your petitioner, and preventing him from obtaining execution upon his said judgment.

That the record and proceedings in the said action were, on or about the — day of — instant, (or, last,) removed into the court of our said lord the king, in his parliament aforesaid; and that although the said record hath been so removed, the said C. D. hath not as yet assigned any errors thereon.

Your petitioner therefore humbly prays your Lordships, to order that the record and proceedings aforesaid may be remitted to the said court of King's Bench, to the end that your petitioner may have execution thereupon.

And your petitioner will ever pray, &c.

A. B.

(§ 51.)
Order there-
on, to assign
errors, in House
of Lords.
Prac. 1168.

Upon reading the petition of A. B. shewing, that in — term last, he obtained a judgment in a certain action, in the court of King's Bench, against C. D. (adding, if the judgment has been affirmed in the Exchequer chamber, "and that the said C. D. thereupon afterwards brought a writ of error in the court of Exchequer chamber, where the said judgment was affirmed;") and that the said C. D. hath brought his writ of

* This petition does not seem to be absolutely necessary; for on a writ of error returnable in parliament, when the transcript is brought in, a peer, it is said, may move the House, without any previous proceeding, for a day to be given to the plaintiff in error to assign his errors. Imp. K. B. 10 Ed. 769.

error thereupon for delay in this house, and that the record and proceedings in the said action have been removed hither, but that the said *C. D.* hath not as yet assigned errors therein; and praying, that the record and proceedings aforesaid may be remitted to the said court of King's Bench, to the end that he may have execution thereupon; It is ordered, by the lords spiritual and temporal in this present parliament assembled, that the said *C. D.* do, and he is hereby required to assign error thereupon, on or before — next, at — of the clock in the forenoon; or otherwise the said record and proceedings shall be, and are hereby remitted, to the end that the said *A. B.* may have execution thereupon, as if no such writ of error had been brought into this House. — *Cler. Parl.*

— term, in the — year of the reign of king *George the Fourth.*

C. D. } Afterwards, to wit, on — next after —, in this same
v. } term, before our lord the king at *Westminster*, comes the
A. B. } said *C. D.* by *G. H.* his attorney, and says that in the re-
in error. } cord and proceedings aforesaid, and also in giving the judg-
ment aforesaid, there is manifest error in this, to wit, that he the said *C. D.* appeared in the suit aforesaid, by — his attorney; nevertheless the said *C. D.* at the time of his said appearance, and also at the time of giving the judgment aforesaid, was under the age of twenty one years, to wit, of the age of — years, and no more, to wit, at —; in which case the said *C. D.* ought to have been admitted to appear in the court aforesaid, to defend the suit aforesaid, by his guardian, and not by his attorney; therefore in that there is manifest error: And this he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

(§ 52.)
Assignment of
infancy, in the
defendant.
Prac. 1168, 9.

J. E. Fivian.

A. B. } And hereupon the said *A. B.* by *E. F.* his attorney, freely
ats. } here in court comes and says, that by reason of any thing
C. D. } above for error assigned, the judgment aforesaid ought not to
in error. } be revoked, annulled, or held for nothing; because he says
that the said *C. D.* at the time of his said appearance, to wit, in the term of —, and also at the time of giving the judgment aforesaid, was of the full age of twenty-one years, to wit, at — aforesaid; and of this he the said *A. B.* puts himself upon the country, &c.

(§ 53.)
Plea, of full
age.
Prac. 1168, 9.

William Matthews.

C. D. } Afterwards, to wit, on — next after —, in this
and wife, } same term, before our lord the king at *Westminster*, come
v. } *C. D.* and *E.* his wife, which said *E.* was and is impleaded
A. B. } in this suit by the name of *E. F.* in their proper persons,
in error. } and say that in the record and proceedings aforesaid, and
also in giving the judgment aforesaid, there is manifest error in this, to wit, that before the day of exhibiting the bill (*or*, “suing out the original writ”) of the said *A. B.* against the said *E.* by the name of *E. F.*

(§ 54.)
Assignment of
coverture in
defendant, at
the time of
bringing the
action.
Prac. 1169.

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and before the giving of the judgment aforesaid, to wit, on —, at aforesaid, the said *E.* intermarried with and took to husband the said *C. D.* and that she the said *E.* at the time of exhibiting the bill (or, “suing out the original writ”) aforesaid, and also at the time of giving the judgment aforesaid, was and yet is covert of the said *C. D.* then and yet her husband, to wit, at — aforesaid; therefore in that there is manifest error: And this they the said *C. D.* and *E.* his wife are ready to verify, wherefore they pray that the judgment aforesaid, for the error aforesaid, may be revoked, annulled, and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of the judgment aforesaid, &c.

W. R. Rennalls.

(§ 55.)
Plea thereto.
Prac. 1169.

A. B. } And hereupon the said *A. B.* by *E. F.* his attorney,
ats. } freely here in court comes and says, that by reason of any
C. D. } thing above for error assigned, the judgment aforesaid ought
and wife, } not to be revoked, annulled, or held for nothing; because
in error. } he says that the said *E.* at the time of exhibiting the bill
(or, “suing out the original writ”) aforesaid, was not nor is covert of
the said *C. D.* in manner and form as the said *C. D.* and *E.* have above
alleged; and of this he the said *A. B.* puts himself upon the country,
&c.

Henry Shepherd.

(§ 56.)
Assignment of
the death of
the plaintiff
before trial,
and award of
scire facias to
his executors.
Prac. 1169.

C. D. } Afterwards, to wit, on — next after —, in this same
v. } term, before our lord the king at *Westminster*, comes the said
A. B. } *C. D.* by *G. H.* his attorney, and says that in the record and
in error. } proceedings aforesaid, and also in giving the judgment afore-
said, there is manifest error in this, to wit, that by the record aforesaid
it appears, that the judgment aforesaid, in form aforesaid given, was
given for the said *A. B.* against the said *C. D.* in the plea aforesaid;
when in truth and in fact, the said *A. B.* in the plea aforesaid named,
before the trial of the issue joined in the record aforesaid, and before the
giving of the judgment aforesaid, to wit, on —, at —, died; there-
fore in that there is manifest error: And this he the said *C. D.* is ready
to verify, wherefore he prays that the judgment aforesaid, for the error
aforesaid, may be revoked, annulled, and altogether held for nothing,
and that he may be restored to all things which he hath lost by occasion
of the said judgment, &c. And the said *C. D.* also prays the writ of our
lord the king, to give notice to — and —, executors of the last will
and testament of the said *A. B.* that they be before our said lord the king
at *Westminster*, on —, to hear the record and proceedings aforesaid,
and the matter above assigned for error; and it is granted to him, &c.

Richard Marnell.

(§ 57.)
The like, of the
death of one of
the defendants
in the action.
Prac. 1169.

C. D. } Afterwards, to wit, on — next after —, in this same
v. } term, before our lord the king at *Westminster*, comes the said
A. B. } *C. D.* by *G. H.* his attorney, and says that in the record and
in error. } proceedings aforesaid, and also in giving the judgment afore-
said, there is manifest error in this, to wit, that by the record aforesaid
it appears, that the judgment aforesaid, in form aforesaid given, was
given for the said *A. B.* as well against the said *E. F.* as against the said

C. D. when in truth and in fact the said *E. F.* in the plea aforesaid named, before the trial of the issue joined in the record aforesaid, between the parties aforesaid, and before the giving of the judgment aforesaid, to wit, on —, at —, died; therefore in that there is manifest error: And this he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

Thomas Butterfield.

A. B. } And the said *A. B.* by *E. F.* his attorney, comes and says,
ats. } that by reason of any thing above for error assigned, the judg-
C. D. } ment aforesaid ought not to be revoked, annulled, or held for
in error. } nothing; because he says that the said *E. F.* in the plea
aforesaid named, is yet living and in full life, to wit, at —; without
this that he the said *E. F.* before the trial of the issue aforesaid, joined
in the record between the parties aforesaid, died, in manner and form as
the said *C. D.* hath above alleged: And this he the said *A. B.* is ready
to verify, wherefore he prays that the judgment aforesaid may be in all
things affirmed, &c.

Samuel Twyford.

C. D. } And the said *C. D.* as before says, that the said *E. F.* be-
v. } fore the trial of the issue aforesaid, joined in the said record
A. B. } between the parties aforesaid, died, in manner and form as he
in error. } the said *C. D.* hath above alleged; and this he the said
C. D. prays may be inquired of by the country, &c.

— term, &c. (513.)

Afterwards, to wit, on — next after —, in this same term, before the lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and immediately says, that in the pronouncing of the outlawry aforesaid, there is manifest error in this, to wit, that the said writ of *exigi facias* is insufficient, invalid, and void in law; therefore in that there is manifest error: There is also error in this, to wit, &c. (*assigning the errors* :) And the said *C. D.* prays the writ of the lord the king, to warn the said *A. B.* to be before the said lord the king, to hear the record and proceedings aforesaid; and it is granted to him, &c.

Thomas Scott.

Afterwards, to wit, on —, in this same term, before the justices here, come *E. F.* and *G. H.* executors of the last will and testament of *C. D.* deceased, in their own proper persons, and say that in the record and proceedings aforesaid, and in the pronouncing of the said outlawry, there is error in this, to wit, that the said *C. D.* before and at the time of awarding and issuing the writ of *exigi facias*, upon which the said outlawry was pronounced, and from thence continually afterwards, until and at the time of pronouncing the said outlawry, was in parts beyond the seas, to wit, at —: And this they the said *E. F.* and *G. H.* are ready to verify, wherefore they pray judgment, and that the outlawry aforesaid, in form aforesaid pronounced against the said *C. D.* may be reversed, annulled, and altogether held for nothing, and that they the said *E. F.* and

(§ 58.)
Plea thereto.
Prac. 1169.

(§ 59.)
Replication.
Prac. 1169.

(§ 60.)
Assignment of
errors, to re-
verse an out-
lawry in the
King's Bench,
for insufficiency
of the *exigi fa-
cias*, &c.
Prac. 138, 9.
1169.

(§ 61.)
The like, in
C. P. by execu-
tors, that their
testator was be-
yond sea, at the
time of the *exi-
gent* awarded.
Prac. 138, 9.
1169.

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G. H. as executors as aforesaid, may be restored to all things which the said *C. D.* in his life-time lost, on occasion of the said outlawry, &c.

J. W. Law.

(§ 62.)
Plea thereto.

Prac. 138, 9.
1169.

And hereupon the said *A. B.* by — his attorney, freely here in court comes and says, that by reason of any thing above for error assigned, the outlawry aforesaid, in form aforesaid pronounced against the said *C. D.* ought not to be reversed, annulled, or held for nothing: Because he says, that the said *C. D.* at the time of awarding and issuing the said writ of *exigi facias*, upon which the said outlawry was pronounced, or from thence continually afterwards, until and at the time of pronouncing the said outlawry, was not in parts beyond the seas, in manner and form as the said *E. F.* and *G. H.* have above alleged; and of this he the said *A. B.* puts himself upon the country, &c.

(§ 63.)
Assignment of
general errors,
in the King's
Bench.

Prac. 1169.

— term, in the — year of the reign of king *George* the Fourth.

C. D. } Afterwards, to wit, on — in this same term, before our
v. } lord the king at *Westminster*, comes the said *C. D.* by *G. H.*
A. B. } his attorney, and says that in the record and proceedings
in error. } aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.*: There is also error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.*; whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

Colin Mackenzie.

(§ 64.)
Assignment of
the want of an
original writ,
in K. B.

Prac. 1169.

C. D. } Afterwards, to wit, on — in this same term, before our
v. } lord the king at *Westminster*, comes the said *C. D.* by *G. H.*
A. B. } his attorney, and says that in the record and proceedings
in error. } aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.*: There is also error in this, to wit, that by the record aforesaid it appears, that the said *C. D.* was attached to answer to the said *A. B.* in the plea aforesaid, yet no original writ between the parties aforesaid, in the plea aforesaid, is filed or remaining of record in the said court of our said lord the king of the bench at *Westminster* aforesaid; therefore in that there is manifest error: There is also error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given

for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And the said *C. D.* prays a writ of our said lord the king, to be directed to the *custos breviarum* of the said court of the bench at *Westminster*, to certify to our said lord the king the truth of the same; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

T. J. Platt.

— to wit. *Certiorari*, to certify an original writ, between *A. B.* plaintiff and *C. D.* late of — defendant, returnable without delay.

G. H. attorney.

— 18—.

(§ 65.)
Præcipe for certiorari, to certify original writ.
Prac. 1170.

George the Fourth, &c. (352.) To our right trusty and well beloved —, holding the office of keeper of the writs, rolls and records of our court of the bench, greeting: We being willing for certain causes to be certified, whether any original writ between *A. B.* and *C. D.* late of —, in a plea of trespass on the case, (*or, as the plea is,*) be filed in your custody, of — term, in the — year of our reign, or not; do command you, that having searched our original writs directed to the sheriff of —, and which are filed of record in your custody, of the aforesaid — term, in the — year of our reign, what you shall find therein of an original writ between the parties aforesaid, of the plea aforesaid, you certify to us without delay, wheresoever we shall be in *England*, together with the return and indorsement thereof; as fully and entirely as the same remain in your custody, and this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 66.)
Writ of certiorari.
Prac. 1170.

— next after — is given to the plaintiff in error, to return the writ of *certiorari*.

In the King's Bench, &c. (347.)

C. D. } — next after — is given to the plaintiff in error, to
v. } return the writ of *certiorari*.
A. B. }
in error.

B. and D.

(§ 67.)
Master's rule, to return *certiorari*, and copy thereof to be served.

Prac. 483.
1170, 71.

Entered.

The answer of —, holding the office of keeper of the writs, rolls and records within named.

By virtue of this writ to us directed, we do hereby certify to our lord the king, that having searched the original writs directed to the sheriff of —, which are filed of record in our custody, of — term, in the — year of the reign of our said lord the king, we find that there is an original writ between the parties within named, in a plea of trespass on the case, (*or, as the plea is,*) directed to the sheriff of —, filed of record in our custody, of the term aforesaid; the tenor of which said original writ, together with the return and indorsement thereof, as fully and entirely as

(§ 68.)
Return thereto, that there is an original writ.
Prac. 1171.

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the same remain in our custody, we do hereby certify to our said lord the king, as appears by the schedule hereunto annexed, and as we are within commanded.

(Here follows a copy of the original writ, with the sheriff's return, &c. indorsed thereon.)

(§ 69.)
Assignment of
the want of a
warrant of at-
torney, in K. B.
Prac. 1169.

C. D. } Afterwards, to wit, on — in this same term, before our
v. } lord the king at *Westminster*, comes the said C. D. by G. H.
A. B. } his attorney, and says that in the record and proceedings afore-
in error. } said, and also in giving the judgment aforesaid, there is mani-
fest error in this, to wit, that the declaration aforesaid, and the matters
therein contained, are not sufficient in law for the said A. B. to have or
maintain his aforesaid action thereof against the said C. D. : There is
also error in this, to wit, that by the record aforesaid it appears, that the
judgment aforesaid, in form aforesaid given, was given for the said A. B.
against the said C. D. ; whereas by the law of the land, the said judg-
ment ought to have been given for the said C. D. against the said A. B. :
There is also error in this, to wit, that by the record aforesaid it appears,
that the said A. B. appeared by E. F. his attorney, against the said C. D.
in the plea aforesaid ; nevertheless there is no warrant of attorney, filed
or remaining of record in the said court of our said lord the king of the
bench at *Westminster*, between the parties aforesaid, in the plea aforesaid,
to warrant the said E. F. to be attorney for the said A. B. against the said
C. D. in the plea aforesaid ; therefore in that there is manifest error :
And the said C. D. prays a writ of our said lord the king, to be directed
to the chief justice of the said court of the bench, to certify to our said
lord the king, the truth of the same ; and it is granted to him, &c. And
the said C. D. prays that the judgment aforesaid, for the errors aforesaid,
and other errors in the record and proceedings aforesaid, may be reversed,
annulled, and altogether held for nothing, and that he may be restored to
all things which he hath lost by occasion of the said judgment, &c.

William Gilby.

— to wit. *Certiorari*, to certify warrant of attorney, for A. B. plain-
tiff, against C. D. late of — defendant, returnable without delay.

G. H. attorney.

— 18—.

(§ 70.)
*Præcipe for cer-
tiorari*, to cer-
tify warrant of
attorney.
Prac. 1170.

(§ 71.)
Writ of cer-
tiorari.
Prac. 1170.

George the Fourth, &c. (352.) To our right trusty and well beloved
Sir *William Draper Best* knight, our chief justice of the bench, greeting :
We being willing for certain causes to be certified, whether A. B. made
E. F. gentleman, his attorney of record, against C. D. late of —, of a
plea of trespass on the case, (*or, as the plea is,*) before you and your com-
panions, our justices of the bench aforesaid, of the term of —, in the
— year of our reign, or not ; do command you, that having searched
the rolls and other memorandums of warrants of attorney, for the county
of —, being in your custody of record, of the aforesaid term of —,
in the — year of our reign aforesaid, what you shall find therein con-
cerning the said warrant of attorney, between the parties aforesaid, of

the plea aforesaid, you certify to us without delay, wheresoever we shall be in *England*, as fully and entirely as the same remains in your custody, together with this writ. Witness *Charles Lord Tenterden, &c.* (456.)

The answer of Sir *William Draper Best* knight, the chief justice within named.

I certify to our lord the king, that having searched the rolls and other memorandums of warrants of attorney, for the county of —, of the term and year within written, being in my custody; I have not found in the same, any warrant of attorney between the within-named *A. B.* and *C. D.* of the plea within mentioned.

And hereupon the said *C. D.* says, that in the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in giving the verdict upon the said issue, between the parties aforesaid joined, as to the first five counts of the said declaration, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the chief justice before whom, &c. at and upon the trial of the said issue between the parties aforesaid joined, did declare, and deliver his opinion to the jury aforesaid, that the evidence offered and produced on the part of the said *A. B.* was sufficient, and that the same was admissible, and ought to be allowed, to entitle the said *A. B.* to a verdict upon the first five counts of the said declaration, and with that direction, he left the said issue to the jury; whereas the same was not sufficient, nor ought the same to have been admitted and allowed, to entitle the said *A. B.* to a verdict upon any of the counts in the said declaration: There is also error in this, to wit, that by the record aforesaid it appears, that the verdict aforesaid was given upon the said issue, between the said parties joined, as to the first five counts of the said declaration, for the said *A. B.*; whereas by the law of the land, the verdict on the said issue, as to those counts, ought to have been given for the said *C. D.*: There is also error in this, to wit, that by the record aforesaid it appears, that the aforesaid judgment, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* as to the said first five counts of the said declaration; whereas by the law of the land, judgment ought to have been given upon those counts, for the said *C. D.* against the said *A. B.* And the said *C. D.* prays that the judgment aforesaid, as to the said first five counts of the said declaration, for the errors aforesaid, and others in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he the said *C. D.* may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

R. H. Blosset.

And hereupon the said *C. D.* says, that in the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in the giving of the judgment aforesaid, there is manifest error in this, to wit, that the aforesaid chief justice and his companions, justices before whom, &c. did not inform the jurors of the jury aforesaid, &c. (as in the bill of exceptions:) There is also error in this, to wit, that by the record aforesaid it appears, that the judgment afore-

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XLIV.

(§ 72.)
Return thereto,
that there is no
warrant of at-
torney.

Prac. 1171.

(§ 73.)
Assignment of
errors, after a
bill of excep-
tions, as to par-
ticular counts,
on a trial be-
fore the chief
justice, in *C. P.*
Prac. 865.

(§ 74.)
The like, after
a bill of excep-
tions, on a trial
at bar, in *C. P.*
with prayer of
*scire facias ad
audiendum
errores, &c.*
Prac. 865.

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said, in form aforesaid given, was given for the said *A. B.* against the said *C. D.*; whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*: And the said *C. D.* prays the writ of our lord the king, to warn the said *A. B.* to be before our said lord the king at *Westminster*, to hear the record and proceedings aforesaid; and it is granted to him: Therefore it is commanded to the sheriff, that he make known to the said *A. B.* that he be before our said lord the king, on, (&c.) to hear the record and proceedings aforesaid, if, &c.; the same day is given to the said *C. D.* &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff hath not sent the writ aforesaid; and the said *A. B.* by *E. F.* his attorney, freely here in court, likewise comes: Whereupon the said *C. D.* as before says, that in the record and proceedings aforesaid, and in the matters recited and contained in the said bill of exceptions, and also in the giving of the judgment aforesaid, there is manifest error; alleging the errors aforesaid, by him the said *C. D.* in form aforesaid above alleged; and he prays that the judgment aforesaid, on account of those errors, and others in the record and proceedings aforesaid, may be revoked, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost on occasion of the judgment aforesaid; and that the said *A. B.* may rejoin to the errors aforesaid; and that the court of our said lord the king here may proceed to examine, as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, &c.

E. Lawes.

(§ 75.)
Assignment of
the want of an
original writ,
and warrants
of attorney,
&c. on error to
the Common
Pleas at *Lan-*
caster.

Pruc. 1169.

C. D. } Afterwards, to wit, on — the — day of —, in this
v. } same term, before our lord the king at *Westminster*, comes
A. B. } the said *C. D.* by *G. H.* his attorney, and says that in the
in error. } record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the said *C. D.* was attached to answer to the said *A. B.* in the plea aforesaid, yet no original writ between the parties aforesaid, in the plea aforesaid, is filed or remaining of record in the said court of our said lord the king before his justices at *Lancaster* aforesaid; therefore in that there is manifest error: There is also error in this, to wit, that by the record aforesaid it appears, that the said *A. B.* appeared by *E. F.* his attorney, against the said *C. D.* in the plea aforesaid; nevertheless there is no warrant of attorney filed or remaining of record in the said court of our said lord the king before his justices at *Lancaster* aforesaid, between the parties aforesaid, in the plea aforesaid, to warrant the said *E. F.* to be attorney for the said *A. B.* against the said *C. D.* in the plea aforesaid; therefore in that there is manifest error: There is also error in this, to wit, that by the record aforesaid it appears, that the said *C. D.* appeared by *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid; nevertheless there is no warrant of attorney filed or remaining of record, in the said court of our said lord the king before his justices at *Lancaster* aforesaid, between the parties aforesaid, in the plea aforesaid, to warrant the said *G. H.* to be attorney for the said *C. D.* at the

suit of the said *A. B.* in the plea aforesaid; therefore in that there is manifest error: There is also error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.*; therefore in that there is manifest error: There is also error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And the said *C. D.* prays the writs of our said lord the king, to be directed to the *custos brevium*, and justices of the said court of our said lord the king before his justices at *Lancaster* aforesaid respectively, to certify to our said lord the king the truth of the premises; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by the occasion of the said judgment, &c.

Henry Dover.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *William Draper Best* knight and his companions, our justices of the bench, by our writ, between *A. B.* plaintiff, and *C. D.* late of — defendant, of a plea of trespass on the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; the record and proceedings of which said judgment, we have lately caused to be brought before us, for certain causes of error; and the said *C. D.* hath duly assigned errors of record upon the judgment aforesaid: And we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid, as is just, command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on —, where-soever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *C. D.*; and further to do and receive what our said court before us shall consider of the said *A. B.* in this behalf; and have there the names of those by whom you shall so make known to him, and this writ. Witness *Charles* Lord *Tenterden*, &c. (456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas lately in our court, before Sir *William Draper Best* knight and his companions, our justices of the bench at *Westminster*, it was considered, that *A. B.* should have execution against *E. F.* and *G. H.* tenants of the lands and tenements of *C. D.* late of —, then deceased, as well of a certain debt of —*l.* as of —*l.* which in our said court of the bench aforesaid, were adjudged to the said *A. B.* against the said *C. D.* for his damages which he had sustained on occasion of the detaining of that debt; whereof the said *E. F.* and *G. H.* on our writ of *scire*

(§ 76.)

Scire facias ad audiendum errores, on error from the Common Pleas.

Prac. 1172.

(§ 77.)

The like, on judgment in *scire facias*, against tenants.

Prac. 1172.

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facias, issuing against the tenants of the lands and tenements of the said *C. D.* on the judgment aforesaid, are convicted: And because in the adjudication of the execution aforesaid, manifest error hath intervened, in the record and proceedings of that adjudication, to the great damage of the said *E. F.* and *G. H.* as by their complaint we are informed; the record of which said judgment and writ of *scire facias*, for certain causes of error, we lately caused to be brought before us, as appears to us of record: Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *E. F.* and *G. H.*; and further to do and receive, &c. (*as in the last.*)

(§ 78.)
The like, on
error from an
inferior court.
Prac. 1172.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint lately levied in our court of —, before the judges of the same court, between *A. B.* and *C. D.* of a plea of trespass on the case, (*or, as the plea is,*) manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; which said record and proceedings we have for certain reasons, caused to come in our court before us; and the said *C. D.* hath duly assigned errors of record upon the judgment aforesaid: And we being willing, &c. (*as before, p. 521.*)

(§ 79.)
The like, on
error to reverse
an outlawry,
in the King's
Bench.
Prac. 1172.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us, impleaded *C. D.* late of —, in a plea that whereas, &c. (*reciting the original writ,*) to the damage of the said *A. B.* of —*l.* as it is said; and the said *C. D.* because he did not come before us, to answer to the said *A. B.* in the same plea, was put in *exigent*, and in your county court, (*or, "in the hustings of pleas of land, holden in the Guildhall of the city of London,"*) on that occasion, was afterwards outlawed; as by the record and proceedings thereof, remaining in our said court before us, manifestly appears: And because on behalf of the said *C. D.* as we are informed, manifest error hath intervened in the record and proceedings aforesaid, and also in the pronouncing of the outlawry aforesaid; and thereupon the said *C. D.* hath prosecuted our writ of error directed to our justices assigned to hold pleas in our court before us, commanding them that the record and proceedings aforesaid being inspected, they cause to be further done thereupon, for the annulling of the outlawry aforesaid, what of right, and according to the law and custom of *England*, ought to be done in the premises; and the said *C. D.* hath thereupon duly assigned his errors of record, as by the inspection thereof likewise appears to us: Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, and also the errors assigned in the pronouncing of the outlawry aforesaid, if it shall seem expedient for the said *C. D.*; and further to do and receive, &c. (*as before, p. 521.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before *Sir William Draper Best* knight and his companions, our justices of the bench at *Westminster*, upon a writ of entry *sur disseisin en le post*, between *A. B.* demandant and *C. D.* deforçant, of — messuages, and — acres of land with the appurtenances, in the parish of — in your said county, and in which said plaint the said *C. D.* then tenant of the tenements aforesaid with the appurtenances, in the same court vouched thereof to warranty *E. F.* who did warrant the same to him, and further thereof vouched to warranty *G. H.* who did warrant the same to him, which said record and proceedings we lately caused to be brought, and they now remain before us, manifest error hath intervened, to the great damage of *J. K.* as by his complaint we are informed: And we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* and also to *L. M.* (&c.) the now tenants of the tenements aforesaid, that they be before us, on —, wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *I. K.*; and further to do and receive, &c. (*as before, p. 521.*)

(§ 80.)
The like, on error to reverse a common recovery.
Prac. 1173.

A. B. } And hereupon afterwards, to wit, on — next after —,
ats. } in — term, in the — year of the reign of our said lord
C. D. } the king, the said *A. B.* by *E. F.* his attorney, freely comes
in error. } here into court, and says that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and he prays that the court of our said lord the king now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because,
&c.

(§ 81.)
Joinder in error, in the King's Bench.
Prac. 1173.

A. B. } Whereupon — next after —, in this same term, is
ats. } given by the court of our said lord the king now here, to re-
C. D. } turn to the court of our said lord the king, the several writs
in error. } of *certiorari* above prayed; the same day is given to the said *A. B.* there, &c. And the said chief justice of our said lord the king of the bench aforesaid, and the said *custos brevium* of the same court, at that day did not return the said writs, nor did they do any thing thereon: And hereupon the said *A. B.* comes voluntarily into court, by — his attorney, and says that there is not any error, either in the record and proceedings aforesaid, or in giving the said judgment; and he prays that the said court of our said lord the king here may proceed to examine as well the record and proceedings aforesaid, as the said matters above assigned for error, and that the judgment aforesaid may be in all things affirmed, &c. But because, &c.

(§ 82.)
The like, after a rule given to return the *certiorari*, with an entry of *non misil brevia*.
Prac. 1171.
1173.

J. J. Jordan.

(§ 83.)
The like, after
a bill of excep-
tions, on a trial
before the chief
justice, in C. P.
Prac. 865.

And hereupon afterwards, to wit, on — next after —, in — term, in the — year of the reign of our said lord the king, (*the day of joining in error*.) the said *A. B.* freely comes here into court, and saith that there is no error, either in the record and proceedings aforesaid, or in the matters recited and contained in the said bill of exceptions, or in giving the verdict upon the said issue, between the parties aforesaid joined, as to the first five counts of the said declaration, or in giving the judgment aforesaid: and he prays that the court of our said lord the king now here may proceed to examine, as well the record and proceedings aforesaid, as also the several matters aforesaid respectively above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because, &c. *Thomas Andrews.*

(§ 84.)
Plea of release
of errors.
Prac. 1174.

A. B. } And the said *A. B.* by *E. F.* his attorney, comes and says,
ats. } that the said *C. D.* ought not further to prosecute or maintain
C. D. } his writ of error aforesaid, against him the said *A. B.*; be-
in error. } cause he says that after the judgment aforesaid, in form afore-
said recovered, and before the day of suing out the said writ of error, to
wit, on —, at —, he the said *C. D.* by the name of —, by his
certain writing of release, sealed with the seal of him the said *C. D.* and
to the court of our said lord the king now here shewn, the date whereof
is the same day and year aforesaid, did remise, release, and for ever quit
claim to the said *A. B.* by the name of —, his heirs executors and ad-
ministrators, all and all manner of error and errors, writ and writs of
error, and all benefits and advantages of the same, and all misprisions of
error and errors, defects and imperfections whatsoever, had, made, com-
mitted, omitted, done or suffered, in about touching or concerning the
judgment aforesaid, obtained against him the said *C. D.* by the said *A. B.*
in the said — term then last past, in the said court of our said lord the
king of Common Bench at *Westminster*, for —*l.* of debt, besides costs
of suit, or in, about, touching or concerning any warrant, process,
original, declaration, plea, entry or other proceeding whatsoever, of or in
any manner concerning the same judgment; as by the said writing of re-
lease more fully appears: And this he the said *A. B.* is ready to verify,
wherefore he prays judgment, if the said *C. D.* ought further to prose-
cute or maintain his writ of error aforesaid, against him the said *A. B.*
&c. *Edward Ryan.*

(§ 85.)
Replication
thereto.
Prac. 1174.

C. D. } And the said *C. D.* says that he, by reason of any thing by
v. } the said *A. B.* in his said plea above alleged, ought not to be
A. B. } barred from further prosecuting and maintaining his writ of
in error. } error aforesaid, against the said *A. B.* on the judgment afore-
said; because he says that the said writing of release, by him the said
A. B. in manner and form aforesaid above pleaded in bar of the errors
aforesaid, by the said *C. D.* above assigned, is not the deed of him the
said *C. D.* And this he the said *C. D.* prays may be inquired of by the
country, &c.

— term, &c. (516.)

(§ 86.)

Assignment of
general errors,
in the Exche-
quer chamber.
Prac. 1169.

C. D. } Afterwards, to wit, on the — day of — in this same
v. } term, before the justices of our lord the king of the bench,
A. B. } and the barons of the Exchequer of our said lord the king
in error. } of the degree of the coif, in the Exchequer chamber at *West-*
minster, comes the said *C. D.* by *G. H.* his attorney, and says that in the
record and proceedings aforesaid, and also in giving the judgment afore-
said, there is manifest error, &c. (*as before*, p. 516.) *J. T. Pratt.*

(§ 87.)

The like, on
judgment re-
ceived by *scire*
facias.

Prac. 1169.

C. D. } Afterwards, to wit, on the — day of — in this same
v. } term, before the justices of our lord the king of the Bench,
A. B. } and the barons of the Exchequer of our said lord the king of
in error. } the degree of the coif, in the Exchequer chamber at *West-*
minster, comes the said *C. D.* by *G. H.* his attorney, and says that in the
record and proceedings aforesaid, and also in giving the judgment and
award of execution aforesaid, there is manifest error in this, to wit, that
there is not any such record of the supposed recovery against him the said
C. D. at the suit of the said *A. B.* remaining in the said court of our
said lord the king before the king himself at *Westminster* aforesaid, as
the said *A. B.* hath above in that behalf alleged; therefore in that there
is manifest error: There is also error in this, to wit, that by the record afore-
said it appears, that execution was adjudged to the said *A. B.* of the damages
in the said writ of *scire facias* mentioned, according to the form and effect
of the said supposed recovery therein also mentioned, although no such re-
covery was had by the said *A. B.* against the said *C. D.*; therefore in
that there is manifest error: And the said *C. D.* prays that the judgment
and award of execution aforesaid, in form aforesaid given and made, for
the above and other errors in the record and proceedings aforesaid, may be
reversed, annulled, and altogether held for nothing, and that he the said
C. D. may be restored to all things which he hath lost by occasion of the
said judgment and award of execution, and that the said *A. B.* may re-
join to the said errors, &c. *G. T. White.*

(§ 88.)

Assignment of
the want of a
bill, and war-
rant of attor-
ney.

Prac. 1169.

C. D. } Afterwards, to wit, on the — day of — in this same
v. } term, before the justices of our lord the king of the bench,
A. B. } and the barons of the Exchequer of our said lord the king of
in error. } the degree of the coif, in the Exchequer chamber at *West-*
minster, comes the said *C. D.* by *G. H.* his attorney, and says that in the
record and proceedings aforesaid, and also in giving the judgment afore-
said, there is manifest error in this, to wit, that there is no bill filed and
remaining of record in the court of our said lord the king before the
king himself, to warrant or support the judgment or proceedings afore-
said; therefore in that there is manifest error: There is also error in this,
to wit, that by the record aforesaid it appears, that the said *A. B.* ap-
peared by *E. F.* his attorney, against the said *C. D.* in the plea afore-
said; nevertheless there is no warrant of attorney, filed and remaining of
record in the said court of our said lord the king before the king him-
self, to warrant such appearance of the said *A. B.*; therefore in that there

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is manifest error: There is also error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law, &c. assigning the common errors, as before, p. 516.): Whereupon the said *C. D.* prays his majesty's writ of *certiorari*, to be directed to his said majesty's chief justice of the said court of our said lord the king before the king himself, to certify more fully the truth of the premises, to the justices and barons aforesaid; and it is granted to him, &c. And the said *C. D.* also prays that the judgment aforesaid, in form aforesaid given, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he the said *C. D.* may be restored to all things which he hath lost by occasion of the said judgment, and that the said *A. B.* may rejoice to these errors, &c.

John Merrifield.

(§ 89.)

Rule to sue out
and return *cer-*
tiorari.

Prac. 1170.

In the Exchequer chamber.

C. D. } Unless the plaintiff in this writ of error, forthwith after
v. } notice hereof to be given to the said plaintiff or his attorney,
A. B. } sue out a writ of *certiorari*, to certify whether or not such a
in error. } bill and warrant of attorney, as in the assignment of errors
of the said plaintiff are mentioned, be affiled of record in the court of
our lord the king before the king himself, and cause the said writ of *cer-*
tiorari to be duly returned, within — days next after such notice as
aforesaid, a nonsuit will be entered.

—, Clerk of the errors.

(§ 90.)

Certiorari for a
bill, to the
chief justice of
the King's
Bench.

Prac. 1170.

George the Fourth, &c. (352.) To our right trusty and well beloved *Charles Lord Tenterden*, our chief justice assigned to hold pleas in our court before us, greeting:* We being willing for certain causes to be certified, whether there be any bill filed against *C. D.* at the suit of *A. B.* in a plea of trespass on the case, (or, as the plea is,) before you of record, or not; do command you, that having searched the files and other remembrances of the bills of the county of —, of the term of —, in the — year of our reign, which are filed of record in your custody, what you shall find therein of the said bill, between the parties aforesaid, of the plea aforesaid, you do certify without delay to our justices of the Common Bench, and the barons of our Exchequer, in our court of Exchequer chamber at *Westminster*, together with this writ. Witness Sir *William Draper Best* knight, &c. (457.)

(§ 91.)

Return of a bill
thereto.

Prac. 1171.

The answer of *Charles Lord Tenterden*, the chief justice within named.

Having searched the files and other remembrances of the bills of the county of —, of the term of —, in the — year of the reign of our said lord the king, affiled of record in my custody; I there find a certain bill of the same term, between the parties within mentioned, of the plea within specified; the tenor of which said bill is set forth in a

* The *certiorari* for an original writ is directed "to the keeper of the writs and records of our court before us."

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certain schedule to this writ annexed: And this I certify to his said majesty's justices of the Common Bench, and barons of the Exchequer within written, as I am within commanded.

Tenterden.

George the Fourth, &c. (352.) To our right trusty and well beloved Charles Lord Tenterden, our chief justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between A. B. and C. D. of a plea of trespass on the case, (*or, as the plea is,*) as it is said, manifest error hath intervened, to the great damage of the said C. D. as by his complaint we are informed; the record and proceedings of which said judgment we have lately caused to be brought before our justices of our Common Bench, and our barons of our Exchequer of the degree of the coif, to correct the errors in the same, according to the form of the statute in such case made and provided, in the chamber of our Exchequer aforesaid: And the said C. D. appearing in the same Exchequer chamber, hath said, that there is no bill filed, &c. (*reciting so much of the assignment of errors, as relates to the want of a bill, and warrant of attorney:*) And we being willing to be certified of the premises aforesaid in this behalf, command you, that having searched the files and other remembrances of bills of the county of —, of — term, in the — year of our reign, and which are filed of record in your custody, and also the rolls and other memorandums of warrants of attorney of the same term, in your custody likewise remaining of record, what you shall find therein, concerning the said bill and warrant of attorney, you certify to our justices of the Common Bench, and barons of our Exchequer of the degree of the coif, immediately, into the chamber of our Exchequer aforesaid, together with this writ. Witness Sir William Drapper Best knight, &c. (457.)

The answer of Charles Lord Tenterden, the chief justice within named.

Having searched the files of bills of the county of —, of — term within written, being in my custody of record, I find no bill filed of record between the parties within written, of the plea within specified: Having also searched the rolls and other memorandums of warrants of attorney of the same term, being likewise in my custody of record, I there find no warrant of attorney filed of record, between the parties within written: And this I certify to his said majesty's justices of the Common Bench, and barons of the Exchequer within written, as I am within commanded.

Tenterden.

A. B. } And hereupon the said A. B. by — his attorney, freely
ats. } comes before the justices of our said lord the king of the
C. D. } bench, and the barons of the Exchequer of our said lord the
in error. } king of the degree of the coif, in the Exchequer chamber at
Westminster aforesaid, and says that there is not any error in the record
and proceedings aforesaid, or in giving the judgment aforesaid; and he
prays that the said court of Exchequer chamber of our said lord the king
now here, may proceed to examine as well the record and proceedings
aforesaid, as the matter aforesaid above assigned for error, and that the

(§ 92.)
Certiorari for
bill and war-
rant of attorney,
to the chief
justice of the
King's Bench.
Prac. 1170.

(§ 93.)
Return thereto,
that there is no
bill, or warrant
of attorney.
Prac. 1171.

(§ 94.)
Joinder in error,
in the Exche-
quer chamber.
Prac. 1173.

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judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because, &c.

(§ 95.)
Assignment of
general errors,
in the House of
Lords.

Prac. 1169.

C. D. } Afterwards, that is to say, on the — day of —, in the
v. } — year of the reign of our sovereign lord *George* the
A. B. } Fourth, king of the united kingdom of *Great Britain* and
in error. } *Ireland*, &c. before our said lord the king and the peers of
this realm, in this present parliament at *Westminster* in the county of
Middlesex assembled, comes the said C. D. by G. H. his attorney, and
says that in the record and proceedings aforesaid, and also in giving the
judgment aforesaid, there is manifest error, &c. (as before, p. 516.)

Samuel Marryat.

(§ 96.)
The like, after
affirmance in
the Exchequer
chamber.

Prac. 1169.

Afterwards, that is to say, on the — day of —, in the — year
of the reign of our sovereign lord *George* the Fourth, king of the united
kingdom of *Great Britain* and *Ireland*, &c. before our said lord the king
and the peers of this realm, in this present parliament at *Westminster* in
the county of *Middlesex* assembled, comes the said C. D. by G. H. his
attorney, and says that in the record and proceedings aforesaid, and also
in giving and affirming the judgment aforesaid, there is manifest error in
this, to wit, that by the record aforesaid it appears, that the judgment
aforesaid, given by the said court of our said lord the king before the
king himself at *Westminster* aforesaid, was given for the said A. B. against
the said C. D. whereas by the law of the land, the said judgment ought
to have been given for the said C. D. against the said A. B.; therefore
in that there is manifest error: There is also error in affirming the said
judgment; because he says, that the judgment aforesaid was affirmed in
the court of our lord the king of Exchequer chamber at *Westminster*, be-
fore the justices of the Common Bench, and the barons of the said Ex-
chequer; whereas no such affirmance of the said judgment ought to have
been given thereupon, but by the law of the land the said judgment ought
to have been reversed; therefore in that there is manifest error: And the
said C. D. prays that the judgment aforesaid, for the errors aforesaid, and
other errors in the record and proceedings aforesaid, may be reversed, an-
nulled, and altogether held for nothing, and that he may be restored to all
things which he hath lost by occasion of the said judgment, and the af-
firmance thereof as aforesaid, and that the said A. B. may rejoin to the
errors above assigned, &c.

W. E. Taunton.

(§ 97.)
The like, after
reversal, in the
Exchequer
chamber in
Ireland, of a
judgment in
the Exchequer
there, for the
plaintiff.

Prac. 1169.

Afterwards, that is to say, on the — day of —, in the — year
of the reign of our sovereign lord *George* the Fourth, king of the united
kingdom of *Great Britain* and *Ireland*, &c. before our said lord the king
and the peers of this realm, in this present parliament at *Westminster* in
the county of *Middlesex* assembled, comes the said A. B. by E. F. his
attorney, and says that in the record and proceedings aforesaid, and also
in the reversal of the judgment, in form aforesaid given, in the said
court of our said lord the king, before the barons of his Exchequer afore-
said, there is manifest error in this, to wit, that by the record aforesaid it

appears, that the said last-mentioned judgment was reversed in and by the said court of our said lord the king in the Exchequer chamber aforesaid ; whereas, by the law of the land, the said last-mentioned judgment ought to have been affirmed in the same court ; therefore in that there is manifest error : And the said *A. B.* prays that the said last-mentioned judgment, for the above and other errors in the record and proceedings aforesaid, may be affirmed, and that the reversal thereof in the said Exchequer chamber may be reversed, annulled, and altogether held for nothing, and that he the said *A. B.* may be restored to all things which he has lost on occasion of the reversal of the said last-mentioned judgment, and that the said *C. D.* may rejoin to these errors, &c. *R. M. Casberd.*

A. B. } And the said *A. B.* by — his attorney, comes and says,
ats. } that there is no error, either in the record and proceedings
C. D. } aforesaid, or in giving the judgment aforesaid ; and he prays
in error. } that the court of our lord the king in his parliament here,
may proceed to examine as well the record and proceedings aforesaid, as
the matters aforesaid above assigned for error, and that the judgment
aforesaid may be in all things affirmed, &c. But because the court of
our said lord the king in his parliament aforesaid, is not yet advised what
judgment to give of and concerning the premises, a day is therefore given
to the said parties here, until —, wheresoever, &c. to hear their judgment
thereon, for that the court of our said lord the king in his parliament
aforesaid, is not yet advised thereof, &c. *W. G. Adam.*

(§ 98.)
Joinder in error,
in the House of
Lords.
Prac. 1173.

(After copying the judgment roll in the original action, proceed on a new line as follows :)

(§ 99.)
Issue, on error
coram nobis.
Prac. 1175.

Afterwards, to wit, on — next after —, in the — year of the reign of our sovereign lord *George the Fourth*, now king of the united kingdom of *Great Britain and Ireland*, &c. before our said lord the king at *Westminster*, comes the said *C. D.* in his proper person, (or, “ by — his attorney ;” or, if he be an infant, “ by *G. H.* his guardian, by the court of our said lord the king hereunto specially admitted,”) and brings into the court of our said lord the king now here, a certain writ of our said lord the king, for correcting error of and upon the premises aforesaid ; which said record and proceedings now remain in the said court of our said lord the king before the king himself here ; and he prays that the said writ may be allowed, and it is allowed him, by the same court here, &c. ; which said writ follows in these words, to wit : *George the Fourth*, &c. (here copy the writ of error, and proceed with the assignment of errors as follows :)

Whereupon the said *C. D.* says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (to the end of the pleadings, beginning each with a new line ; and conclude, by bill, with the following tward of venire facias :) Therefore let a jury thereupon come before our lord the king at *Westminster*, on

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— next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place: (Or, by original, "Therefore the sheriff is commanded," &c. as before, p. 241.)

— term, (*the term the transcript was brought in,*) in the — year of the reign of king George the Fourth.

England, to wit. Our lord the king hath sent to his right trusty and well beloved Sir William Draper Best knight, his chief justice of the bench, his writ close in these words, to wit: *George the Fourth, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed on a new line as follows:)*

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (*here copy the assignment of errors, and joinder in error, and conclude with a continuance by curia advisari vult, as follows:)* But because the court of our said lord the king now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king, until —, wheresoever our said lord the king shall then be in *England*, to hear the judgment aforesaid; for that the court of our said lord the king now here is not yet advised thereof, &c.

(*As in the last, to the end of the transcript, and then as follows:)*

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and says that execution of the said judgment still remains to be made to him; therefore he prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, that he make known, &c. (*as in the entry of a non pros in the King's Bench, for not assigning errors after a scire facias quare executionem non, for which vide post, p. 537. to the day given by the rule for the plaintiff to assign errors, and then as follows:)* At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said *C. D.* being solemnly called, also comes by — his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (*here copy the assignment of errors and joinder, and conclude with a continuance by curia advisari vult, as above.*)

(*As in the last but one, to the end of the assignment of errors, and then as follows:)*

Which said writ of *certiorari* so prayed and granted, follows in words, to wit: *George the Fourth, &c. (here copy the writ of certiorari, and proceed as follows:)* Which said keeper of the writs rolls and records returned and certified to our said lord the king, that having searched the original writs, &c. (*here recite the return, as before, p. 517.*): And

(§ 100.)

Entry of issue,
on error in law,
in the King's
Bench.

Prac. 1175.

(§ 101.)

The like, after
a scire facias
quare executionem
non.

Prac. 1175.

(§ 102.)

The like, after
rt, on
error assigned
for want of an
original writ.

Prac. 1175.

which said schedule, so annexed to the said writ of *certiorari*, follows in these words, to wit: *George the Fourth, &c. (here copy the schedule:)* Which said writ of *certiorari*, together with the return of the same, is filed among the records without day, of — term aforesaid. And hereupon afterwards, to wit, on —, in — term, in the — year of the reign of our said lord the king, the said *A. B.* by *E. F.* his attorney, freely comes here into court, and says that there is no error, &c. (*here copy the joinder in error, and conclude with a continuance by curia advisari vult, as in p. 530.*)

— Which said writ of *certiorari*, so prayed and granted, follows in these words, to wit: *George the Fourth, &c. (here copy the writ of certiorari, and proceed as follows:)* Which said chief justice of the bench aforesaid returned and certified to our said lord the king, that by virtue of the said writ of *certiorari*, he had searched, &c. (*here recite the return, and copy the schedule, &c. as in the last.*)

(*As before, p. 530. § 100. to these words, in the assignment of errors, "And this he the said C. D. is ready to verify," and then as follows:)*

And the said *C. D.* prays the writ of our said lord the king, to warn the said *A. B.* to be before our said lord the king, to hear the record and proceedings aforesaid, and the matters aforesaid for error assigned; and it is granted to him, &c.: by which it is commanded to the sheriff of the county aforesaid, that by good and lawful men of his bailiwick, he make known to the said *A. B.* that he be before our said lord the king, on —, wheresoever our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, and the matter aforesaid for error assigned, if, &c. and further to do and receive what the said court of our said lord the king shall consider of him in this behalf; the same day is given to the said *C. D.* &c.: At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.*; and the sheriff, to wit, —, sheriff of the said county, returns, that by virtue of the said writ to him directed, he hath, by — and —, good, &c. caused it to be made known to the said *A. B.* that he be before our said lord the king, at the time in the said writ mentioned, as by the said writ he was commanded, &c. And the said *A. B.* being solemnly called, comes by — his attorney; whereupon the said *C. D.* as before said, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, by alleging the said errors by him in form aforesaid alleged; and he prays that the judgment aforesaid, in form aforesaid given, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

And the said *A. B.* by his attorney aforesaid, comes and says, that there is no error, &c. (*here copy the joinder in error, and conclude as before:)*

(§ 103.)

The like, after a *certiorari*, on error assigned for want of a warrant of attorney.

Prac. 1175.

(§ 104.)

The like, after a *certiorari*, returned, on a *scire facias ad audientum errorum*.

Prac. 1175.

(§ 105.)
The like, after
two *nihilis* re-
turned.

Prac. 1175.

(*As in the last, to the day given on the scire facias, and then as follows:*)

At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff, to wit, —, sheriff of the said county, returns, that the said *A. B.* hath not any thing in his bailiwick, where or by which he can give him notice, as by that writ he was commanded, neither is the said *A. B.* found in the same; and the said *A. B.* doth not come: Therefore, as before, it is commanded to the said sheriff of —, that by good, &c. he make known to the said *A. B.* that he be before our said lord the king, on —, (*the return of the second scire facias,*) wheresoever our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, if, &c. and further, &c.; the same day is given to the said *C. D.* &c.: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *C. D.* by his attorney aforesaid; and the sheriff of the county aforesaid as before returns, that the said *A. B.* hath not any thing in his bailiwick, where or by which he can make known to him, &c. (487.) nor is he found in the same; and the said *A. B.* being solemnly called, comes by — his attorney: Whereupon the said *C. D.* as before saith, &c. (*as in the last.*)

(§ 106.)
The like, after
a bill of excep-
tions, on a trial
before the chief
justice, in *C. P.*

Prac. 865.

— term, (*the term the transcript was brought in,*) in the — year of the reign of king *George the Fourth.*

England, to wit. Our lord the king hath sent to his right trusty and well beloved Sir *William Draper Best* knight, his chief justice of the bench, his writ close in these words, to wit: *George the Fourth, &c.* (*here copy the writ of error and return, with the proceedings in the original action, to the end of the issue, as in the transcript, and proceed on a new line as follows:*)

Afterwards, to wit, on the — day of —*, in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and saith that at the sittings of *nisi prius*, holden at the *Guildhall* in the city of *London* aforesaid, in and for the said city, at the trial of the aforesaid issue, certain exceptions were taken and made by the counsel learned in the law of the said *C. D.* on behalf of the said *C. D.* to certain matters then given in evidence, on the part of the said *A. B.* in the plea aforesaid; and the aforesaid exceptions were then and there written in a certain bill; and the aforesaid Sir *William Draper Best*, his majesty's chief justice of the Bench, then and there put his seal to the said bill of exceptions, pursuant to the statute in such case made and provided: And the said *C. D.* brings here into court the said bill of exceptions, with the said seal of the said chief justice put thereto; and the said Sir *William Draper Best*, chief justice of the said court of the Bench, comes and acknowledges that he put his seal to the said bill of exceptions; which said bill of exceptions follows in these words, that is

* The day on which the chief justice came into the court of King's Bench, and acknowledged his seal to the bill of exception.

to say : (*here copy the bill of exceptions, and afterwards the assignment of errors, and joinder, &c. as before, pp. 519. 524.*)

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(§ 107.)

The like, after a bill of exceptions, on a trial at bar, in C. P.

Prac. 865.

Afterwards, to wit, on — next after —, in this same term, before our said lord the king at *Westminster*, comes the said C. D. by G. H. his attorney, and saith that in the court of our said lord the king of the Bench aforesaid, at *Westminster* aforesaid, at the trial of the issue aforesaid, on behalf of him the said C. D. certain exceptions were taken and made to certain matters then given in evidence on behalf of the said A. B. in the plea aforesaid, by the counsel learned in the law of him the said C. D.; and the exceptions aforesaid were then and there written in a certain bill: and the said Sir *William Draper Best* knight, his majesty's chief justice of the said court of the Bench aforesaid, Sir *James Allan Park* knight, Sir *James Burrough* knight, and Sir *Stephen Gaselee* knight, his companions, justices of the Bench aforesaid, then and there affixed their respective seals to the said bill of exceptions, according to the form of the statute in such case made and provided: And the said C. D. brings here into court, the bill of exceptions aforesaid, with the respective seals of the same justices to the said bill affixed: And the said C. D. prays the writ of our said lord the king, to be directed to the same justices of the Bench, to command the same chief justice and his companions aforesaid, to be before our said lord the king, wheresoever, &c. and it is granted to him; by which it is commanded to the said Sir *William Draper Best* knight, chief justice of the Bench aforesaid, Sir *James Allan Park* knight, Sir *James Burrough* knight, and Sir *Stephen Gaselee* knight, his companions, justices of the Bench aforesaid, that they be before our said lord the king, on —, wheresoever, &c. to acknowledge or deny the respective seals, which are affixed by them to the said bill of exceptions, as by the said C. D. is before asserted, bringing with them that writ; the same day is given to the said C. D. &c. At which day, before our said lord the king at *Westminster*, comes the said C. D. by his attorney aforesaid; and the aforesaid justices, to wit, Sir *William Draper Best* knight, chief justice aforesaid, and his companions, justices of the Bench aforesaid, came in their proper persons, and acknowledged their seals, by them affixed to the said bill of exceptions as aforesaid: which said bill of exceptions follows in these words, that is to say: — to wit. (*Here copy the bill of exceptions, and afterwards the assignment of errors, as before, p. 519. and the joinder in error, &c.*)

The rule for a *concilium* on a writ of error, is the same as on demurrer; for which *vide ante*, p. 257.

(§ 108.)

Rule for *concilium*, in the King's Bench. Prac. 1176.

(§ 109.)

Entry of issue, on error from the King's Bench to the Exchequer chamber.

Prac. 1176.

Pleas in the Exchequer chamber at *Westminster*, before the right honourable Sir *William Draper Best* knight, chief justice of the common Bench of our sovereign lord the king, the right honourable Sir *William Alexander* knight, chief baron of the Exchequer of our sovereign lord the king, of the degree of the coif, Sir *James Allan Park* knight, Sir *James Burrough* knight, and Sir *Stephen Gaselee* knight, the three other justices of the common Bench of our sovereign lord the king, and also before Sir *William Garrow* knight, Sir *John Hullock* knight, and *John Vaughan*

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Esquire, the three other barons of the Exchequer of our sovereign lord the king, of the degree of the coif, on — the — day of —, in the — year of the reign of king *George the Fourth*, &c.

Our sovereign lord the king hath sent to his right trusty and well beloved *Charles Lord Tenterden*, his chief justice assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, to wit: *George the Fourth*, &c. (*here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows:*)

And thereupon comes here into court, in the said Exchequer chamber, the said *C. D.* in his proper person, and prays a day to assign error or errors in the record and proceedings aforesaid; whereupon a day is given to him by the court here, to assign error or errors in the record and proceedings aforesaid, until — the — day of — next, &c.

Pleas in the Exchequer chamber, &c. (*as before, mutatis mutandis.*)

And thereupon comes here into court, in the said Exchequer chamber, the said *C. D.* in his proper person, and prays a further day to assign error or errors in the record and proceedings aforesaid; whereupon a further day is here given him by this court, to assign error or errors in the record and proceedings aforesaid, until — the — day of — next, &c.

Pleas in the Exchequer chamber, &c. (*as before.*)

At which day comes here into court, in the said Exchequer chamber, the said *C. D.* by — his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (*here copy the assignment of errors:*) And the said *C. D.* prays a writ, to be directed to the sheriff of —, to give notice to the said *A. B.* that he be here, to hear the record and proceedings aforesaid; and it is granted to him, &c. Therefore the sheriff is commanded, hat by good and lawful men of his bailiwick, he give notice to the said *A. B.* that he be here, on — the — day of — next, &c.

Pleas in the Exchequer chamber, &c. (*as before.*)

At which day, come here into court, in the said Exchequer chamber, as well the said *C. D.* by his attorney aforesaid, as the said *A. B.* by — his attorney; and the sheriff did not send the writ, nor did he do any thing thereupon; therefore the said *C. D.* as before says, that in the record and proceedings aforesaid, and also in giving the said judgment, there is manifest error, by alleging the error aforesaid, by him above for error assigned and alleged; and he prays that the said judgment, by reason of that error, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, &c.

And the said *A. B.* says, that there is not any error, &c. (*here copy the joinder in error:*) But because the court of our lord the king here is willing to advise of and upon the premises, before judgment is given thereupon, a day is given to the said parties here, till — the — day of — next, &c.

Pleas before our lord the king at *Westminster*, of the term of —, in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our Lord 18—.

Roll —.

Ellenborough.

England, to wit. Our lord the king hath sent to his trusty and well beloved Sir *William Draper Best* knight, his chief justice of the bench, his writ close in these words, to wit: *George the Fourth, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript *, and proceed as follows:)*

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (*here copy the assignment of errors, and pleadings thereon, to the end of the issue and award of venire facias, and proceed with a second placita as follows:*)

Pleas before our lord the king, &c. (*as above.*)

— to wit. The jury between *C. D.* by his attorney plaintiff in error, and *A. B.* defendant, of a plea of error in fact, is respited before our lord the king, until —, wheresoever our said lord the king shall then be in *England*, unless the king's right trusty and well beloved *Charles Lord Tenterden*, his majesty's chief justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of —, at the *Guildhall* of the city of *London*, (*or, "at Westminster-hall, in the county of Middlesex aforesaid,"*) according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: Therefore let the sheriff have the bodies of the said jurors, to make the said jury between the parties aforesaid, of the plea aforesaid, accordingly; the same day is given to the said parties, &c.

(*After the entry of final judgment, on the judgment roll, proceed on a new line as follows:*)

Afterwards, to wit, on — next after —, in — term, in the — year of the reign aforesaid, our lord the king hath sent to his right trusty and well beloved *Charles Lord Tenterden*, his chief justice assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, (to wit:) *George the Fourth, &c. (as in the writ of error to the end, and then, on a new line, as follows:)*

And hereupon it is ordered, by a rule or order of the said court of our said lord the king before the king himself now here, that unless the said *C. D.* the plaintiff in the said writ of error, certify the record, within *eight* days next after notice thereof to be given to the said plaintiff or his attorney, a nonsuit shall be entered; and a day is thereupon accord-

(§ 110.)

Record of nisi prius, in error, on an issue in fact.

Prac. 1175.

(§ 111.)

Entry of non pros, in K. B. for not transcribing.

Prac. 1160.
1168.

* On a writ of error *coram nobis*, the proceedings must be entered on the same roll as the original judgment, or former writ of error. *Cro. Eliz.* 155. 281. 1 *Ld. Raym.* 151. *Carth.* 369. *S. C.*

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ingly given to the said *C. D.* before our said lord the king, until — next after —, wheresoever our said lord the king shall then be in *England*, that is to say, for the said *C. D.* to certify the said record: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney; and the said *C. D.* although solemnly called, and although due notice of the said rule or order hath been given to his attorney, and although the time mentioned in the said rule or order hath expired, doth not come, nor hath he certified the said record, nor doth he further prosecute his said writ of error, but therein makes default: Therefore it is considered, that the said *C. D.* take nothing by his writ aforesaid, but that he be in mercy, &c. and that the said *A. B.* do go thereof without day, &c.

As yet of — term, in the — year of the reign of king *George* the Fourth. Witness *Charles Lord Tenterden*.

England, to wit. *C. D.* puts in his place *G. H.* his attorney, to prosecute his writ of error against *A. B.* of a plea of trespass on the case, (or, as the plea is.)

England, to wit. The said *A. B.* puts in his place *E. F.* his attorney, at the suit of the said *C. D.* on the said writ of error, in the plea aforesaid.

England, to wit. Our lord the king hath sent to his right trusty and well beloved *Charles Lord Tenterden*, his chief justice, &c. (534.) his writ close in these words, to wit: *George* the Fourth, &c. (*here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows:*)

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney, and prays that the said *C. D.* may assign errors of record, in the record and proceedings aforesaid; whereupon a day is given by the court of our said lord the king now here, until — next after —, that is to say, for the said *C. D.* to assign errors in the record and proceedings aforesaid: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said *C. D.* although solemnly called, doth not come, nor hath he assigned any error of record, in the record and proceedings aforesaid, nor doth he further prosecute his his said writ of error, but makes default: Therefore it is considered, that the said *C. D.* take nothing by his writ aforesaid, and that the said *A. B.* do go thereof without day, &c; and that the said *A. B.* have his execution against the said *C. D.* of his damages (or, “debt and damages”) aforesaid, according to the force, form and effect of the said recovery, &c. It is also considered, that the said *A. B.* do recover against the said *C. D.* —*l.* by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages, costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; and that the said *A. B.* have execution thereof, &c.; and the said *C. D.* in mercy, &c.

(§ 111. a.)
The like, for
not assigning
errors.

Prac. 1160.
1168.

(*As in the last, to the end of the transcript, and then as follows :*)

Afterwards, to wit, on — next after —, in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and says that execution of the judgment aforesaid, still remains to be made to him ; therefore he prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid that he make known to the said *C. D.* to be before our said lord the king, wheresoever, &c. to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of his damages costs and charges aforesaid, according to the force form and effect of the said recovery ; and it is granted to him, &c. by which it is commanded to the sheriff of the county of — aforesaid, that by honest and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king, on —, (*the return of the scire facias*,) wheresoever, &c. to shew in form aforesaid, if, &c. and further, &c. ; the same day is given to the said *A. B.* &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* in the plea aforesaid ; and the sheriff, to wit, —, sheriff of the said county of —, returns, that by virtue of the said writ to him directed, by — and —, honest, &c. he has given notice to the said *C. D.* to appear, &c. to shew, as by that writ he was required ; and the said *C. D.* being solemnly called, doth not come, but makes default : And hereupon the said *A. B.* says, that the said *C. D.* hath not assigned any error or errors in the record and proceedings aforesaid ; therefore a day is given to the parties aforesaid, to come before our said lord the king, on —, wheresoever, &c. that is to say, for the said *C. D.* to assign error or errors in the record and proceedings aforesaid, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid ; and the said *C. D.* at that day, although solemnly called, doth not come, but again makes default, nor does he further prosecute his said writ of error against the said *A. B.* Therefore it is considered, &c. (*as in the last.*)

(*As in the last, to the sheriff's return, and then as follows :*) And the sheriff, to wit, —, sheriff of the said county, returns that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by that writ he was commanded, nor is the said *C. D.* found in the same ; and the said *C. D.* doth not come : Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *C. D.* that he be before our said lord the king, on —, (*the return of the second scire facias*,) wheresoever, &c. to shew in form aforesaid, if, &c. and further, &c. ; the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* ; and the aforesaid sheriff of the said county of — as before returns, that the said *C. D.* hath not any thing, &c. nor is the said *C. D.* found in the same ; and the said *C. D.* although solemnly called, doth not come, but makes default : And hereupon, &c. (*as in the last.*)

(§ 112.)

The like, after a return of *scire feci*, on a *scire facias quare executionem non*.

Prac. 1160.
1167.

(§ 113.)

The like, after two *nihil* returned.

Prac. 1160.
1167.

(§ 114.)
The like, on
error from the
King's Bench,
to the Exche-
quer chamber.

Prac. 1160.
1167.

Pleas in the Exchequer chamber, &c. (*as before, pp. 533, 4. to the end of the second placita, and then as follows :*)

At which day, the said *C. D.* being solemnly called, did not come, neither does he further prosecute his said writ of error: Therefore it is considered, that the said *C. D.* take nothing by his said writ of error, but that he be in mercy, &c. and that the said *A. B.* do go thereof without day, &c. And it is further considered, that the said *A. B.* do recover against the said *C. D.* — *l.* by the court of our said lord the king adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: Whereupon the record and proceedings of the said justices of the common Bench and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices of the common Bench and barons of the Exchequer, before our said lord the king, where-soever, &c. according to the form of the statute of the twenty-seventh year of the reign of the late Queen *Elizabeth*, &c.

Vide ante, § 111.

(§ 115.)
Prac. 1160.
(§ 116.)
The like, on
error in the
House of Lords.
Prac. 1160.
1167.

Afterwards, to wit, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, king of the united kingdom of *Great Britain* and *Ireland*, &c. before our lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *A. B.* in his proper person, and prays that the said *C. D.* may assign errors in the record and proceedings aforesaid: Therefore a day is given to the said *C. D.* before our said lord the king in parliament, to assign errors in the record and proceedings aforesaid, until — the — day of — instant: At which day, before our said lord the king in his parliament, comes the said *A. B.* in his proper person; and the said *C. D.* although solemnly called, doth not come, but makes default, nor doth he further prosecute the said writ for correcting errors against the said *A. B.* Therefore it is considered by the said court of our said lord the king in his parliament, that the said *C. D.* take nothing by his said writ of error, but that he be in mercy, &c.; and that the said *A. B.* do go thereof without day, &c. It is also considered by the said court of our said lord the king in his parliament, that the said *A. B.* recover against the said *C. D.* — *l.* by the court of our said lord the king in his parliament adjudged to the said *A. B.* and with his assent, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; and that the record and proceedings aforesaid be remitted from the court of parliament aforesaid, to the court of our said lord the king before the king himself, to the end that execution may be had thereupon, &c.

(After the entry of the writ of error and return, for which vide post, § 134. proceed as follows :)

Afterwards, to wit, on the — day of —, in the — year of the reign of our said lord the king, before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, come as well the said *A. B.* as the said *C. D.* in their proper persons ; and the said *A. B.* prays that the said *C. D.* may assign error or errors in the record and proceedings aforesaid : And thereupon the said *C. D.* hath until the — day of —, in the said — year of the reign of our said lord the king, wheresoever, &c. given him by the said court of parliament, to assign error or errors in the record and proceedings aforesaid ; the same day is given to the said *A. B.* At which day, before our said lord the king in parliament at *Westminster* aforesaid, the said *A. B.* comes in his proper person ; but the said *C. D.* although solemnly called, comes not, nor does he further prosecute his said writ of error : Therefore it is considered by the same court of parliament, that the said *C. D.* be in mercy, &c. because he hath not prosecuted his said writ for correcting error with effect : And it is further considered by the same court of parliament, that the said *A. B.* do recover against the said *C. D.* — *l.* adjudged to the said *A. B.* by the same court of parliament, for the damages costs and charges which he hath sustained, by reason of the delay of execution of the judgment aforesaid, for that the said *C. D.* hath not further prosecuted his said writ of error : And thereupon the said record, and also the process had in the said court of parliament, by the same court of parliament, were remitted to the said court of our said lord the king before the king himself, wheresoever, &c. to the end execution might be done thereupon ; and the same now remains in the said court, to wit, at *Westminster*, in the county of *Middlesex*, &c.

A. B. against C. D.

In the Exchequer : Upon writs of error depending on judgments, in the Office of Pleas.

It is ordered, that the defendant have his execution upon the judgment given between the said parties, in the Office of Pleas in the court of Exchequer, and his costs to be taxed thereupon, by reason of the delay of execution, on account of a writ of error obtained by the said plaintiff ; because the said plaintiff did not prosecute the writ of error aforesaid.

By the Court.

Rosc.

(§ 117.)
Entry thereof,
and *remittitur*,
on judgment roll,
in K. B.
Prac. 1185.

(§ 118.)
Rule for execution, on non
prossing a writ
of error, in the
Exchequer of
Pleas.

Prac. 1185.

(Entry of warrants of attorney, as before, p. 536.)

England, to wit. Our lord the king hath sent to his right trusty and well beloved Sir *William Draper Best* knight, his chief justice of the bench, his writ close in these words, to wit : *George the Fourth, &c. (here copy the issue, to the end of the continuance by curia advisari vult, and proceed as follows :)* At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid ; where-

(§ 119.)
Affirmance, in
the King's
Bench, of a
judgment for
the plaintiff.

Prac. 1178.

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signed, &c.
(186.)

Mercy.

(§ 120.)
Reversal, in the
King's Bench,
of a judgment
for the plain-
tiff.

Prac. 1178.

(§ 121.)
The like, of a
judgment for
the defendant,
in debt.

Prac. 1178.

(§ 121. a.)
The like, of a
judgment for
the defendant
in case, or other
action for da-
mages.

Prac. 1178.
1180.

upon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said *C. D.* above for error assigned, being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the court of our said lord the king now here, that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid: Therefore it is considered, that the judgment aforesaid, in form aforesaid given, be in all things affirmed, and stand in full force and effect, the several matters above for error assigned in any wise notwithstanding: And it is further considered, that the said *A. B.* do recover against the said *C. D.* as well his damages (*or*, “debt and damages”) aforesaid, as also — *l.* adjudged to him by the court of our said lord the king now here, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error; which said damages costs and charges in the whole amount to — *l.* and that the said *A. B.* have execution thereof, &c.; and the said *C. D.* in mercy, &c.

(*As in the last, to the end of the issue, and then as follows:*)

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment aforesaid in form aforesaid given, as the matters aforesaid by the said *C. D.* above for error assigned, being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error: Therefore it is considered, that the judgment aforesaid, for the error aforesaid, and other errors in the record and proceedings aforesaid, be reversed, annulled, and altogether held for nothing; and that the said *C. D.* be restored to all things which he hath lost by occasion of the said judgment, &c.

(*As in the last, to the beginning of the award of restitution, and then as follows:*)

— and that the said *A. B.* do recover against the said *C. D.* his debt aforesaid, and also — *l.* for his damages which he hath sustained, as well by means of the detaining of the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; and that he have execution thereof, &c.; and the said *C. D.* in mercy, &c.

(*As in the last but one, to the beginning of the award of restitution, and then as follows:*) and that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* hath sustained by means of the premises; the sheriff is commanded, &c. (*as before, p. 200.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was attached (*or*, summoned) to be in our court before our justices at *Westminster*, to answer *A. B.* in a plea, that whereas, &c. (*to the end of the declaration* :) And it was in such manner proceeded in our said court before our justices aforesaid, that it was considered by the same court, that the said *A. B.* should take nothing by his writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c.; and it was further considered by the same court, that the said *C. D.* should recover against the said *A. B.* — *l.* which were awarded to the said *C. D.* by the discretion of the said justices, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in that behalf; and that the said *C. D.* should have execution thereof, &c. And thereupon the said *A. B.* afterwards brought and prosecuted our writ of error, in our court before us at *Westminster* aforesaid, for the reversal of the said judgment: And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that it was considered by the same court, that the judgment aforesaid, for certain errors assigned therein by the said *A. B.* and for other errors in the record and proceedings aforesaid being, should be reversed, annulled, and altogether held for nothing; and that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: And because it is unknown to our said court before us, what damages the said *A. B.* hath sustained by means of the premises aforesaid; therefore we command you, &c. (*as in a common writ of inquiry, for which vide ante p. 205.*)

England, to wit. Our lord the king sent to his sheriffs of *London*, his writ close in these words, to wit: George the Fourth, &c. (*here copy the writ of exigi facias, and proceed on a new line as follows* :)

At which day, before the justices here, come — and —, sheriffs of *London* aforesaid, and return the writ aforesaid, to them in form aforesaid directed, in these words, to wit: By virtue of this writ to me directed, &c. (*here copy the sheriffs' return to the writ of exigi facias, and proceed as follows* :) And thereupon our said lord the king sent to his sheriffs of *London* aforesaid, his certain other writ close in these words, to wit: George the Fourth, &c. (*here copy the writ of allocatur exigent, and proceed on a new line as follows* :)

At which day, before the justices here, come the said — and —, sheriffs of *London* aforesaid, and return the said last-mentioned writ, to them in form aforesaid directed, in these words, to wit: At the hustings, &c. (*here copy the sheriffs' return to the writ of allocatur exigent, and proceed on a new line as follows* :)

And now at this day, that is to say, on — in this same term, before the justices here, come *E. F.* and *G. H.* executors of the last will and testament of the said *C. D.* deceased, in their own proper persons, and bring here into court, a certain other writ close of our said lord the king, directed to his justices here; which said last-mentioned writ follows in these words, that is to say: George the Fourth, &c. (*here copy the writ of*

(§ 121. 6.)
Writ of inquiry
of damages
thereon.

Prac. 1180.

(§ 122.)
Entry of proceedings, and judgment of reversal, in *C. P.* on a writ of error *coram vobis*, brought by executors, to reverse an outlawry in *London*, on an *allocatur exigent* against their testator, who was beyond sea at the time of the *exigents* awarded, after issue joined thereon, and trial at *nisi prius*, with continuance by *vicecomes non misit breve*, and suggestion of the death of one of the executors, after issue and before trial.

Prac. 138, 9.
1178.

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error, for which vide ante, p. 498. and proceed on a new line as follows:)

And upon this the said *E. F.* and *G. H.* executors as aforesaid, in their proper persons, come and say, that in the record and proceedings aforesaid, and in the pronouncing of the said outlawry, there is error, &c. (*here copy the assignment of errors, and plea thereto, for which vide ante, p. 515. beginning each with a new line, and proceed as follows:)*

And the said *E. F.* and *G. H.* executors as aforesaid, as to the said plea of the said *A. B.* by him above pleaded, and whereof he hath put himself upon the country, do the like: Therefore the sheriffs are commanded, that they cause to come here, in —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.: At which day, before the justices here, come as well the said *E. F.* and *G. H.* executors as aforesaid, in their proper persons, as the said *A. B.* by his attorney aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: Therefore, as before, the sheriffs are commanded, that they cause to come here in —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.: At which day, before the justices here, come as well the said *E. F.* executor as aforesaid, in his proper person, as the said *A. B.* by his attorney aforesaid; and the said *G. H.* comes not; nor have the sheriffs sent the writ of our said lord the king, to them in that behalf directed, nor have they done any thing thereupon: And hereupon the said *E. F.* gives the justices here to understand and be informed, that after the last continuance of the writ of error aforesaid, and before this day, to wit, on, (*&c.*) at, (*&c.*) the said *G. H.* died, and the said *E. F.* then and there survived him; which allegation the said *A. B.* doth not deny, but admits the same to be true: Therefore let no further proceedings be had, on the said writ of error, at the suit of the said *G. H.* And in order to try the said issue, above joined between the said *E. F.* surviving executor as aforesaid, and the said *A. B.* the sheriffs are commanded, that they cause to come here on —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.: At which day, the jury between the parties aforesaid, in the plea aforesaid, was respited thereupon between them here, until —, unless *Sir William Draper Best* knight, the king's chief justice of the bench here assigned, by form of the statute in such case made and provided, shall first come on — the — day of —, at the *Guildhall* of the city of *London*, for default of the jurors, because none of them did appear: And now here at this day, comes the said *E. F.* surviving executor as aforesaid, in his proper person; and the said chief justice, before whom the said issue was tried, hath sent hither his record had before him in these words, to wit: Afterwards, &c. (*here copy the postea, and proceed as follows:)* And hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it is considered by the said justices here, that the outlawry aforesaid, in form aforesaid pronounced against the said *C. D.* for the error aforesaid, be re-

voked, annulled, and altogether held for nothing ; and that the said *E. F.* surviving executor as aforesaid, and the estate and effects of the said *C. D.* be thereof acquitted and discharged ; and that the said *E. F.* surviving executor as aforesaid, be restored to all things which he, and the said *C. D.* in his life-time, have lost on occasion of the said outlawry, &c.

(*To the end of the entry of the issue, as in 533, 4. and then as follows :*)

— to wit. *C. D.* puts in his place *G. H.* his attorney, against *A. B.* in a plea of correcting errors.

— to wit. The said *A. B.* puts in his place *E. F.* his attorney, at the suit of the said *C. D.* in the plea aforesaid.

Pleas in the Exchequer-chamber, &c. (*as before, pp. 533, 4. mutatis mutandis.*)

At which day, come here into court in the said Exchequer chamber, as well the said *C. D.* as the said *A. B.* by their attornies aforesaid ; whereupon the premises being considered, and as well the record and proceedings aforesaid, and the judgment aforesaid thereon given, as also the cause for error above assigned, being by the court of our said lord the king here diligently examined and fully understood, it appears to the said court of our said lord the king here, that the judgment aforesaid is not in any wise erroneous or defective, and that in the record and proceedings aforesaid there is not any error : Therefore it is considered, that the judgment aforesaid be in all things affirmed, and stand in its full force strength and effect, the said cause above for error assigned and alleged, in any wise notwithstanding : And it is further considered, that the said *A. B.* recover against the said *C. D.* — *l.* by the court of our said lord the king here adjudged to the said *A. B.* and with his assent, according to the form of the statute in that case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error : Whereupon the record and proceedings of the said justices of the Common Bench and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices and barons, before our said lord the king, wheresoever, &c. according to the form of the statute of the twenty seventh year of the reign of the late Queen *Elizabeth*, &c.

(*As in the last, till the proceedings are brought down to the day of giving the judgment, and then as follows :*)

At which day, come here into court, in the said Exchequer chamber, as well the said *C. D.* in his proper person, as the said *A. B.* by his attorney aforesaid : Whereupon as well the record and proceedings aforesaid, and the judgments aforesaid in form aforesaid given, as the matters aforesaid by the said *C. D.* above for error assigned, being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that the judgment aforesaid, in form aforesaid given, whereby it was considered that the said *A. B.* should recover

(§ 123.)
Affirmance, in the Exchequer chamber, of a judgment for the plaintiff.
Prac. 1178.

(§ 124.)
The like, of one judgment for debt and costs, and reversal of another for damages, on stat. 8 & 9 W. III. c. 11. § 8.

Prac. 1178.

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against the said *C. D.* his said debt, and also — *l.* for his damages which he had sustained, as well by occasion of the detaining of the said debt, as for his costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c. is not in any wise erroneous or defective; and that in the record and proceedings aforesaid, as to the said last-mentioned judgment, there is not any error: Therefore it is considered, that the said last-mentioned judgment be in all things affirmed, and stand in its full force strength and effect, the said matters above for error assigned and alleged in any wise notwithstanding. But inasmuch as it further appears to the said court of our said lord the king now here, that there is manifest error in the record and proceedings aforesaid, as to the judgment aforesaid, in form aforesaid given, whereby it was considered that the said *A. B.* should recover against the said *C. D.* his damages aforesaid, to the said sum of — *l.* in form aforesaid found, and also — *l.* for his further costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c.; therefore it is considered, that the said last-mentioned judgment, for the error aforesaid, be reversed, annulled, and altogether held for nothing, and that the said *C. D.* be restored to all things which he hath lost by occasion of the said last-mentioned judgment, &c. And hereupon the record and proceedings of the said justices of the Common Bench and the said barons of the Exchequer, before them had in the premises, are remitted, &c. (*as in the last.*)

In the Exchequer chamber.

C. D. against *A. B.* in error.

(§ 125.)
Notice of motion, for computing interest, on affirmance in the Exchequer chamber.

Prac. 1184.

Take notice, that this honourable court will be moved, on — next, for a rule, that it be referred to the clerk of the errors, to calculate and ascertain the amount of the interest, upon the final judgment obtained in the court of King's Bench, after the rate of *5l. per cent. per annum*, from the time of final judgment being entered up, until the affirmance of the said judgment in the said court; and that such interest may be added to the damages, for which such final judgment was entered up. Dated this — day of — 18—.

In the Exchequer chamber.

C. D. plaintiff, }
Between and } in error.
A. B. defendant, }

(§ 126.)
Affidavit, in support of same.

Prac. 1184.

E. F. of — gentleman, maketh oath and saith, that this action was originally brought in his majesty's court of King's Bench, by the above-named *C. D.* as indorsee, against the above-named *A. B.* as acceptor, of a certain bill of exchange, dated, &c. (*date of bill*), for the sum of — *l.* drawn by one *G. H.* on the said *A. B.* and payable — after the date thereof, to the order of the said *G. H.* and by him indorsed to the said *C. D.* And this deponent further saith, that the said *A. B.* having pleaded in the said action, a judgment recovered in his majesty's court of Common Pleas, interlocutory judgment was signed therein, for not producing the record; and a rule having been obtained for referring it to the master, to see what was due for principal and interest on the said bill of exchange, and to tax the said *C. D.* his costs, the sum of — *l.* was allowed by the

said master, for principal and interest on the said bill of exchange, and the sum of — *l.* for costs in the said action, making together the sum of — *l.* for which final judgment was signed in — term last. And this deponent further saith, that the said *A. B.* hath brought a writ of error on the said last-mentioned judgment, returnable in this honourable court, on which he hath assigned the common errors, as this deponent was informed by the clerk of the errors; and which writ of error was (as this deponent believes,) brought for delaying payment of the sum recovered by the said last-mentioned judgment. And this deponent further saith, that he did on the — day of — instant, (*or*, last,) serve a true copy of the notice hereunto annexed, on Mr. —, who acts as attorney or agent for the said *A. B.* by leaving the same at the said Mr. —'s house (*or*, chambers) in —, with his clerk there. E. F.

Sworn, &c. (175.)

C. D. } On reading the affidavit of *E. F.* gentleman, it is ordered,
v. } that it be referred to the clerk of the errors, to calculate and
A. B. } ascertain the amount of the interest upon the final judgment
in error. } obtained in the court of King's Bench, after the rate of *5l.*
per cent. per annum, from the time of final judgment being entered up, until the affirmance of the said judgment in this court; and that such interest may be added to the damages, for which such final judgment was entered up. Upon the motion of Mr. *C. C. Pepys*. By the Court.

(§ 127.)
Rule of court
thereon.

Prac. 1184.

Afterwards, to wit, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, king of the united kingdom of *Great Britain* and *Ireland*, &c. a transcript of the record and proceedings aforesaid, between the parties aforesaid, of the plea aforesaid, with all things concerning the same, by means of a certain writ of our lord the king for correcting errors, prosecuted by the said *C. D.* against the said *A. B.* of and upon the premises, by the court of our said lord the king before the king himself here, was transmitted before the justices of our said lord the king of his court of Common Bench, and the barons of the Exchequer of our said lord the king of the degree of the coif, in the Exchequer chamber, according to the form of the statute made in the twenty-seventh year of the reign of the lady *Elizabeth*, late Queen of *England*, &c.: And the said *C. D.* appearing in the Exchequer chamber aforesaid, assigned certain matters for error, in the record and proceedings aforesaid, and in giving the judgment aforesaid, for reversing the said judgment; to which the said *A. B.* also appearing in the said court of Exchequer chamber, pleaded that there was no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid: And afterwards, to wit, on — the — day of —, in the — year of the reign of our said lord the king, as well the record and proceedings aforesaid, and the judgment aforesaid given in form aforesaid, as also the matters by the said *C. D.* for error assigned, being by the court of Exchequer chamber diligently examined and fully understood, it seemed to the said court of Exchequer chamber, that there was no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid: Therefore it was then and there con-

(§ 128.)
Entry on the
judgment roll,
in K. B. of pro-
ceedings and
affirmance in
the Exchequer-
chamber, and
remittitur to the
King's Bench.
Prac. 1185, 6.

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sidered by the said court of Exchequer chamber, that the judgment aforesaid should be in all things affirmed, and stand in its full force strength and effect, the matters aforesaid above for error assigned and alleged in any wise notwithstanding: And it was then and there further considered by the same court, that the said *A. B.* should recover against the said *C. D.* — *l.* by the same court there adjudged to the said *A. B.* at his request, according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: And thereupon as well the record aforesaid, as the proceedings of the justices of the Common Bench and barons of the Exchequer aforesaid, before them had in the premises, were by the said justices and barons remitted into the court of our said lord the king before the king himself, according to the form of the statute in such case made and provided, and now remain in the said court of our said lord the king before the king himself, &c.

(§ 129.)
Reversal of judgment for defendant in case, or other action for damages, on writ of error by plaintiff, in Exchequer chamber.

Prac. 1178.
1180.

(*As in § 123, to the words "diligently examined and fully understood," and then as follows:*) it seems to the said court of our said lord the king now here, that there is manifest error in the record and proceedings aforesaid, and in giving the judgment aforesaid: Therefore it is considered, that the judgment aforesaid, in form aforesaid given, for the errors aforesaid, and other errors therein being, be reversed, annulled, and altogether held for nothing; and that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the said court of our said lord the king now here, what damages the said *A. B.* hath sustained by reason thereof, the record and proceedings of the said justices of the Common Bench, and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices and barons, to the court of our said lord the king before the king himself, according to the form of the statute of the twenty-seventh year of the reign of the late Queen *Elizabeth*, in order that the said damages may be ascertained, and that the said *A. B.* may have judgment for the same, and execution thereupon, &c.

(§ 129. a.)
Award of writ of inquiry of damages thereon.

Prac. 1180.

(*After the entry of the proceedings, and reversal of the judgment in the Exchequer chamber, and remittitur to the King's Bench, proceed on a new line as follows:*)

Afterwards, to wit, on — next after —, in — term, in the year last aforesaid, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and prays the writ of the said lord the king, to be directed to the sheriff of —, commanding him, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended; and it is granted to him, &c. And thereupon the said sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, &c. (*as before, p. 200.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas A. B. lately in our court before us at Westminster, by bill without our writ, impleaded C. D. being in the custody of the marshal of our Marshalsea before us, for that whereas, &c. (reciting the declaration throughout,) to the damage of the said A. B. of —l. as it was said, and therefore he brought his suit, &c. And such proceedings were thereupon had, in our said court before us at Westminster aforesaid, that it was considered by the same court, that the said A. B. should take nothing by his bill aforesaid; but that he and his pledges to prosecute should be in mercy, &c.; and that the said C. D. should go thereof without day, &c. And it was further considered by the same court, that the said C. D. should recover against the said A. B. —l. for his costs and charges by him laid out about his defence in that behalf, by the same court adjudged to the said C. D. and with his assent, according to the form of the statute in such case made and provided; and that the said C. D. should have execution thereof, &c. And thereupon the said A. B. afterwards brought and prosecuted our writ of error, in our court of Exchequer chamber at Westminster, before our justices of the Common Bench, and the barons of our Exchequer of the degree of the coif, for the reversal of the said judgment; and such proceedings were thereupon had in our said court of Exchequer chamber at Westminster aforesaid, that it was considered by our said court of Exchequer chamber, that the judgment aforesaid, for certain errors assigned therein by the said A. B. and for other errors in the record and proceedings aforesaid being, should be reversed, annulled, and altogether held for nothing; and that the said A. B. ought to recover against the said C. D. his damages on occasion of the premises: But because it was unknown to our said court of Exchequer chamber, what damages the said A. B. had sustained by means of the premises, as well the record and proceedings in the plaint aforesaid, which had been removed into our said court of Exchequer chamber, by virtue of our writ of error aforesaid, as the record and proceedings of our said court of Exchequer chamber, had before the same court in the premises, were remitted by our said court of Exchequer chamber, to our court before us, according to the form of the statute in such case made and provided, in order that the said damages might be ascertained, and that the said A. B. might have judgment for the same, and execution thereupon, &c. Therefore, to the end that the said damages may be ascertained as aforesaid, we command you, that by the oath of twelve good and lawful men of your bailiwick, &c. (as in a common writ of inquiry, for which vide ante, p. 205. making the writ returnable at Westminster, on a day certain.)

(After the entry of the judgment, in the Exchequer of Pleas, proceed, on the same roll, as follows:)

Afterwards, that is to say, on the — day of —, in the — year of the reign of his present majesty, our said lord the king sent here his writ of error, under the great seal of *Great Britain*, directed to the treasurer and barons of his said Exchequer, in these words: *George the*

(§ 180.)
Writ of inquiry of damages thereon.
Prac. 1180.

(§ 131.)
Affirmance of judgment for plaintiff, in the Exchequer of Pleas.
Prac. 1178.

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Fourth, &c. (*here copy the writ of error, and proceed on a new line as follows:*)

At which day, that is to say, on — the — day of —, in the year last aforesaid, in the council chamber nigh the said Exchequer, before the right honourable *John Singleton Lord Lyndhurst*, lord high chancellor of *Great Britain*, (there being then no treasurer of the said Exchequer,) having taken to himself the chief justices of each Bench, and having called before him the barons of the said Exchequer, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *C. D.* says, that in the record and proceedings aforesaid, &c. (*copy the assignment of errors to the end, and proceed on a new line as follows:*)

And the said *A. B.* says, that there is not any error in the record and proceedings aforesaid, or in giving the judgment aforesaid: And he prays that the court of our lord the king here may proceed to examine, as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. Whereupon the premises being considered, and as well the record and proceedings aforesaid, as the matters aforesaid by the said *C. D.* above assigned for error, being seen, and by the said court of Exchequer chamber now here fully understood, and mature deliberation being thereupon had, it appears to the same court here, that there is no error, either in the record or proceedings aforesaid, or in giving the judgment aforesaid: Therefore it is considered, that the judgment aforesaid, in form aforesaid given, be in all things affirmed, and stand in full force and effect, the several matters above for error assigned in any wise notwithstanding: And it is further considered, that the said *A. B.* do recover against the said *C. D.* as well his damages (*or*, “debt and damages”) aforesaid, as also — *l.* adjudged to him the said *A. B.* at his request, according to the form of the statute in such case made and provided, for his damages costs and charges, which he hath sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error; which said damages costs and charges in the whole amount to — *l.*; and that the record and process be sent back into the said Exchequer, to make thereof execution, according to the form of the statute of the 31st year of the late king *Edward the Third*; and the said *C. D.* in mercy, &c.

Judgment
signed, &c.
(186.)

Mercy.

(§ 132.)
Petition, to have
an early day ap-
pointed for a
hearing, in the
House of Lords.

Prac. 509,
1177.

To the right honourable the Lords spiritual and temporal, in parliament assembled.

The humble petition of *A. B.* defendant, in a writ of error in parliament, wherein *C. D.* is plaintiff,

Sheweth,

That your petitioner obtained a judgment after verdict, in the court of King's Bench, against the said *C. D.* in an action of debt for — *l.* which in — term last, on a writ of error brought by the said *C. D.* in the Exchequer chamber, was unanimously affirmed by all the judges of the court of Common Pleas and barons of the Exchequer: That the said *C. D.* hath lately brought a writ of error returnable in parliament, in

which the plaintiff in error hath named himself by a different addition from what he is named in the said action, with an intent thereby, as your petitioner is advised, to delay your petitioner, in a most unreasonable and unusual manner, from the recovery of his just debt.

That the plaintiff in error hath nevertheless assigned his errors; and your petitioner hath joined in error.

Your petitioner therefore most humbly prays your lordships, to appoint such a day for taking the premises into your consideration, and arguing the said errors, as to your lordships' great wisdom shall seem meet.

And your petitioner shall ever pray, &c.

— the — day of — 18—.

Upon reading the petition of *A. B.* defendant in a writ of error depending in this House, wherein *C. D.* is plaintiff, setting forth that the petitioner having obtained a judgment, &c. (*as in the petition;*) and praying that a day may be appointed for taking the premises into consideration, and arguing the said errors, as to this House shall seem meet; It is ordered, by the lords spiritual and temporal in parliament assembled, that the plaintiff in error be served with a copy of the said petition, and this order; and that this house will hear counsel thereupon, on — the — day of — next, at — o'clock.

At which day, before the same court of parliament at *Westminster*, come as well the said *C. D.* as the said *A. B.* in their proper persons; whereupon all and singular the premises being seen, and by the court of parliament aforesaid now here fully understood, and as well the record and proceedings aforesaid, and the judgment thereon given, as the said causes and matters by the said *C. D.* above for error assigned, being diligently examined and inspected, and mature deliberation being thereupon had, it seems to the court of parliament aforesaid now here, that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid, (*adding, if after affirmance in the Exchequer chamber, "or in the affirmance of the same judgment,"*) and that the said record is in nowise vicious or defective: Therefore it is considered by the same court of parliament, that the judgment aforesaid, in form aforesaid given, (*adding, if the judgment has been affirmed in the Exchequer chamber, "and also the affirmance of the same judgment,"*) be in all things affirmed, and stand in their full force and effect, the said causes and matters by the said *C. D.* above for error assigned in any wise notwithstanding: And it is further considered by the same court of parliament now here, that the said *A. B.* do recover against the said *C. D.* — *l.* by the same court of parliament adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: And thereupon the record aforesaid, and also the proceedings aforesaid in the same court of parliament had in the premises, are remitted by the same court of parlia-

(§ 132. a.)
Order thereon.
Prac. 509.
1177.

(§ 133.)
Affirmance in
the House of
Lords, of a
judgment in
the King's
Bench.
Prac. 1178.

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ment, to the court of our said lord the king before the king himself, where-soever, &c.

Cler. Parl.

(§ 134.)
Entry of proceedings and affirmance, in the House of Lords, and *re-mittitur* to the King's Bench.

Prac. 1185.

Afterwards, to wit, on the — day of —, in the — year of the reign of our sovereign lord the now king, the said lord the king sent to his right trusty and well-beloved *Charles Lord Tenterden*, the chief justice of the same lord the king, assigned to hold pleas in the court of the said lord the king before the king himself, his writ close in these words, to wit: *George the Fourth, &c. (here copy the writ of error, and proceed as follows :)* By virtue of which said writ, the said chief justice with his own proper hands brought the record and proceedings in the plaint aforesaid, with all things concerning the same, to our said lord the king in this present parliament, in a certain record to the said writ annexed, according to the exigency of that writ.

Afterwards, to wit, on the — day of —, in the — year of the reign of our said lord the king, before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* in his proper person, and immediately says that in the record and proceedings aforesaid, and also in the judgment aforesaid thereupon given in the said court of Exchequer chamber of our said lord the king, there is manifest error, &c. (*stating the assignment of errors, and joinder :*) But because the court of our said lord the king before the king himself in his parliament, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king in his parliament, until — the — day of — next ensuing, where-soever, &c. to hear their judgment of and upon the premises, because the court of our said lord the king in his parliament here, are not yet advised thereof, &c. At which day, before the same court of parliament at *Westminster* aforesaid, come as well the said *C. D.* as the said *A. B.* ; whereupon all and singular the premises being seen, &c. (*as in the last, to the end.*)

(§ 135.)

Vide ante, p. 539. § 117.

(§ 136.)

Reversal of judgment for defendant *in case*, or other action for damages, on writ of error by plaintiff, in the House of Lords.

Prac. 1178.
1180.

(*As in § 133. to "mature deliberation being thereupon had," and then as follows :*) it seems to the court of parliament aforesaid now here, that there is manifest error in the record and proceedings aforesaid, and in giving the judgment aforesaid: Therefore it is considered by the same court of parliament, that the judgment aforesaid, in form aforesaid given, (*adding, if the judgment has been affirmed in the Exchequer chamber,* "and also the affirmance of the same judgment,") for the errors aforesaid, and other errors in the said record and proceedings being, be reversed, annulled, and altogether held for nothing; and that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the same court of parliament now here, what damages the said *A. B.* hath sustained by reason of the premises, the record and proceedings aforesaid are hereupon remitted from the same court of parliament, to the court of our said lord the king before

the king himself, in order that the said damages may be ascertained, and that the said *A. B.* may have judgment for the same, and execution thereupon, &c.

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George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was attached (*or, summoned*) to appear in our court before us at *Westminster*, to answer *A. B.* of a plea, that whereas, &c. (*to the end of the declaration :*) And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that it was considered by the same court, that the said *A. B.* should take nothing by his writ aforesaid; but that he and his pledges to prosecute, &c. (*as in § 130. to the words “ execution thereof,” and then as follows :*) And thereupon the said *A. B.* afterwards brought and prosecuted our writ of error, in our court of parliament at *Westminster*, for the reversal of the said judgment; and such proceedings were thereupon had, in our said court of parliament at *Westminster* aforesaid, that it was considered by the same court, that the judgment aforesaid, for certain errors assigned therein by the said *A. B.* and for other errors in the record and proceedings being, should be reversed, annulled, and altogether held for nothing; and that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it was unknown to our said court of parliament, what damages the said *A. B.* had sustained by means of the premises, the record and proceedings aforesaid were thereupon remitted from our said court of parliament, to our court before us, in order that the said damages might be ascertained, and that the said *A. B.* might have judgment for the same, and execution thereupon, &c. Therefore, to the end that the said damages may be ascertained as aforesaid, we command you, that by the oath of twelve good and lawful men of your bailiwick, &c. (*as in a common writ of inquiry, for which vide ante, p. 205. making the writ returnable on a general return day, wheresoever, &c.*)

(§ 137.)
Writ of inquiry
of damages
thereon.

Prac. 1180.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* late of —, in your bailiwick, you cause to be made —*l.* (*or, “ a certain debt of —*l.*”*) which *A. B.* lately in our court before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, recovered against the said *C. D.* &c. (352. 356.); whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into court before us at *Westminster*, for certain supposed causes of error therein, and which are now there remaining, appears to us of record; and also —*l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by

(§ 138.)
Fieri facias,
after non pros
or affirmance,
in the King's
Bench.

Prac. 1185.

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the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect ; (*or, on an affirmance, "the said judgment being in our said court before us, in all things affirmed ;"*) whereof the said *C. D.* is also convicted, as appears to us of record ; and have the said monies before us, on —, wheresoever we shall then be in *England*, to be rendered to the said *A. B.* for his damages costs and charges aforesaid ; and have there this writ. Witness *Charles Lord Tenterden, &c.* (456.)

(§ 139.)
The like, for
the damages
and costs in
error only.
Prac. 1185.

George the Fourth, &c. (352.) To the sheriff of —, greeting : We command you, that of the goods and chattels of *C. D.* late of —, in your bailiwick, you cause to be made — *l.* which lately in our court before us, were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of a certain judgment, obtained by the said *A. B.* against the said *C. D.* in our court before *Sir William Draper Best* knight and his companions, our justices of the bench at *Westminster*, on pretence of prosecuting our writ of error, brought by the said *C. D.* against the said *A. B.* of and upon the said judgment, because the said *C. D.* did not prosecute the said writ of error with effect ; (*or, "the said judgment being in our said court before us, in all things affirmed ;"*) whereof the said *C. D.* is convicted, as by the record and proceedings thereof, which for certain supposed causes of error therein, we lately caused to be brought into our said court before us, and which are now there remaining, appears to us of record ; and have the said money, &c. (*as in the last.*)

(§ 140.)
The like, after
non pros or
affirmance, in
the Exchequer
chamber.
Prac. 1185.

George the Fourth, &c. (352.) To the sheriff of —, greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* (*or, "a certain debt of — *l.*"*) which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* &c. (352. 356.) ; whereof the said *C. D.* is convicted, as appears to us of record ; and also — *l.* which in our court of Exchequer chamber at *Westminster*, before our justices of the bench, and the barons of our Exchequer of the degree of the coif, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect ; (*or, "the said judgment being in our said court of Exchequer chamber, in all things affirmed ;"*) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into, and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record ; and have the said monies before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages costs and charges aforesaid ; and have there then this writ. Witness *Charles Lord Tenterden, &c.* (456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels in your bailiwick, which were of *G. H.* deceased, at the time of his death, in the hands of *C. D.* and *E.* his wife, which said *E.* is executrix of the last will and testament of the said *G. H.* to be administered, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* and *E.* his wife, as the said *E.* is executrix as aforesaid, for his damages which he had sustained, as well on occasion of the not performing of certain promises and undertakings, made by the said *G. H.* in his life-time to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* and *E.* his wife, as the said *E.* is executrix as aforesaid, are convicted, as appears to us of record; and also — *l.* which in our court of Exchequer chamber at *Westminster*, before our justices of the bench, and the barons of our Exchequer of the degree of the coif, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* and *E.* his wife, which said *E.* is executrix as aforesaid, against the said *A. B.* the said judgment being in our said court of Exchequer chamber in all things affirmed; whereof the said *C. D.* and *E.* his wife, which said *E.* is executrix as aforesaid, are also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; if the said *C. D.* and *E.* his wife, which said *E.* is executrix as aforesaid, have so much thereof in their hands to be administered; and if they have not so much thereof in their hands to be administered, then that you cause to be made — *l.* parcel of the damages first above mentioned, being for the costs and charges also first above mentioned, and — *l.* being for the damages costs and charges lastly above mentioned, of the proper goods and chattels of the said *C. D.* in your bailiwick: and have the said monies before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his several damages costs and charges aforesaid; and have there then this writ. Witness *Charles Lord Tenterden, &c. (456.)*

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* our debtor, in our court, before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (or, “in the — year of our reign,”) by the consideration and judgment of our said court, recovered against *C. D.* — *l.* for his damages, &c. (353. 356.); whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: And whereas the record and proceedings of the said plaint, were afterwards had and removed, by our writ of error, on the prosecution of the said *C. D.* according to the form of the statute in such case made and provided, into the council chamber near our said Exchequer, before our lord chan-

(§ 141.)
The like, after
affirmance in
the Exchequer
chamber, of a
judgment
against baron
and feme, the
feme being exe-
cutrix *de bonis
testatoris*, &c.

Prac. 1185.

(§ 142.)
The like, after
non pros, on
error from the
Exchequer of
Pleas.

Prac. 1185.

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cellor of *Great Britain*, there being then no treasurer of our said Exchequer; and the said lord chancellor of *Great Britain*, there being then no treasurer of our said Exchequer, having taken to himself the chief justices of each bench, and called before him the barons of our said court of Exchequer, and the reasons of the said barons being heard, thereupon considered, that the said *C. D.* should be in mercy, for that he the said *C. D.* had not prosecuted his said writ of error; and that the said *A. B.* should recover against the said *C. D.* —*l.* for his damages costs and charges which he had sustained, by reason of the delay of execution of the said judgment; as by the record and proceedings thereof, remitted into our said Exchequer, also appears to us: Therefore we command you, that you omit not by reason of any liberty of your county, but that you enter the same, and cause to be made of the goods and chattels of the said *C. D.* in your bailiwick, as well the said —*l.* for the damages aforesaid, by virtue of the said judgment in the said court of Exchequer, recovered by the said *A. B.* in form aforesaid, as the said —*l.* adjudged by the said lord chancellor, there being then no treasurer of our said Exchequer, in the said council chamber, in form aforesaid; and have the said monies before the barons of our said Exchequer at *Westminster*, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there this writ. Witness Sir *William Alexander* knight, &c. (353.)

(§ 143.)
The like, after
an action on
the judgment,
and writ of
error thereon.

Prac. 1185.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* (or, “a certain debt of —*l.*”) which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* &c. (352. 356.); whereof the said *C. D.* is convicted, as appears to us of record; and also —*l.* which in our court of Exchequer chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the coif, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, “the said judgment being in our said court of Exchequer chamber, in all things affirmed;”) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into, and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and also —*l.* which the said *A. B.* lately in our said court before us at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, as well by reason of the detention of the said first-mentioned damages, (or, “debt and damages,”) costs and charges, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record; and also —*l.* which in

our said court of Exchequer chamber, before our justices and barons aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of the said last-mentioned judgment, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said last-mentioned writ of error with effect, (*or*, “ the said last-mentioned judgment being in our said court of Exchequer chamber, in all things affirmed ;”) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises last aforesaid, and by them remitted into, and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record ; and have the said monies, &c. (*as before*, § 140.)

George the Fourth, &c. (352.) To the sheriff of —, greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which lately in our court of Exchequer chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the coif, were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of a certain judgment, obtained by the said *A. B.* against the said *C. D.* in our court before us, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect ; (*or*, “ the said judgment being in our said court of Exchequer chamber, in all things affirmed ;”) whereof the said *C. D.* is convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into, and now remaining in our said court before us at *Westminster* aforesaid, appears to us of record ; and have the said monies, &c. (*as before*, § 140.)

George the Fourth, &c. (352.) To the sheriff of —, greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* (*or*, “ a certain debt of —*l.*”) which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* &c. (352. 356.) ; whereof the said *C. D.* is convicted, as appears to us of record ; and also —*l.* which in our court of parliament were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect ; (*or*, “ the said judgment being in our said court of parliament, in all things affirmed,”) whereof the said *C. D.* is also convicted, as by the inspection of the record and proceedings thereof, remitted from our said court of parliament

(§ 144.)
The like, for
the damages
and costs in
error only.

Prac. 1185.

(§ 145.)
The like, after
non pros or
affirmance, in
the House of
Lords.

Prac. 1185

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(§ 146.)
Capias ad satisfaciendum, after
non pros or
affirmance, in
the King's
Bench.
Prac. 1185.

into our court before us, also appears to us of record; and have the said monies, &c. (*as before*, § 140.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on —, wheresoever we shall then be in *England*, to satisfy *A. B.* —*l.* (*or*, “a certain debt of —*l.*”) which the said *A. B.* lately in our court, before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, recovered against the said *C. D.* &c. (352. 356.); whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us at *Westminster*, for certain supposed causes of error therein, and which are now there remaining, appears to us of record; and also —*l.* which in our said court before us at *Westminster*, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (*or*, “the said judgment being in our said court before us, in all things affirmed;”) whereof the said *C. D.* is also convicted, as appears to us of record; and have there this writ. Witness *Charles Lord Tenterden*, &c. (456.)

The different writs of *capias ad satisfaciendum*, after a *non pros* or affirmance in the Exchequer chamber or House of Lords, may be easily collected from the last form, and the foregoing writs of *faci facias*, in similar cases.

(§ 147.)
Scire facias
quare restitutionem non, after
judgment reversed, in the
King's Bench.
Prac. 1186.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately, to wit, in — term, in the — year of our reign, in our court before Sir *William Draper Best* knight and his companions, then our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, recovered against *C. D.* late of, (&c.) —*l.* which in our same court were adjudged to the said *A. B.* for his damages, &c. (352.); whereof the said *C. D.* was convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error we caused to be brought into our court before us at *Westminster*, appears to us of record: And for divers errors found in the record and proceedings aforesaid, and also in the giving of the judgment aforesaid, we have reversed and totally annulled the said judgment; and we have further considered in our said court before us at *Westminster* aforesaid, that the said *C. D.* be restored to all things which he hath lost on occasion of the judgment aforesaid: And now, on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* hath had his execution of the damages aforesaid, on pretence of the judgment

aforesaid, given in our court of the bench aforesaid, and is yet possessed thereof, to wit, at — ; whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have restitution of the damages aforesaid, according to the force form and effect of the judgment aforesaid, given in our said court before us ; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* —*l.* for his damages, &c. (352.) ; whereof the said *C. D.* is convicted, as appears to us of record ; and afterwards, the said *C. D.* brought our writ for correcting error of and upon the record and proceedings aforesaid, against the said *A. B.* returnable before our justices of the Common Bench and the barons of our Exchequer, in our Exchequer chamber: And thereupon afterwards, to wit, on the — day of —, in the — year of our reign, before our justices of the Common Bench and the barons of our Exchequer aforesaid, in our said Exchequer chamber, it was considered that the judgment aforesaid, for divers errors in the record and proceedings aforesaid, should be reversed, annulled, and altogether held for nothing, and that the said *C. D.* should be restored to all things which he had lost on occasion of that judgment ; as by the inspection of the record and proceedings thereof, now remaining in our said court before us, also appears to us of record: And now on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* hath had his execution of the damages aforesaid, in form aforesaid recovered, and is yet possessed thereof ; whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have restitution of the damages aforesaid, if it shall seem expedient for him ; and further to do and receive, &c. (*as before*, p. 456.)

(§ 148.)

The like, after judgment reversed, in the Exchequer chamber.

Prac. 1186.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* lately, that is to say, in — term, in the — year of our reign, in our court before Sir *William Draper Best* knight and his companions, then our justices of the bench at *Westminster*, by our writ, and by the judgment of the same court, recovered against *C. D.* late of, (&c.) —*l.* for his damages, &c. (352.) ; whereof the said *C. D.* is convicted, as by the record and proceedings thereof, which for certain causes of error we lately caused to be brought into our court before us,

(§ 149.)

Writ of restitution, after judgment reversed, in the King's Bench.

Prac. 1186.

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appears to us of record : And by reason of divers errors in the said record and proceedings, and also in giving the judgment aforesaid, we have reversed, and totally annulled the same ; and we have further considered in our said court before us, that the said *C. D.* be restored to all things which he hath lost on occasion of the judgment aforesaid : And whereas the said *A. B.* on pretence of the said former judgment, hath had his execution of the damages aforesaid, and is yet possessed thereof, as we have been informed : Therefore we command you, that if it can be made appear to you, that the said *A. B.* hath had his execution of the damages aforesaid, by virtue of the judgment aforesaid, then without delay you cause the said *C. D.* to have full restitution of the said ———*l.* : and if you cannot cause him to have restitution thereof, then that of the goods and chattels of the said *A. B.* in your bailiwick, you cause to be made the said ———*l.* and cause that money to be delivered without delay to the said *C. D.* (*or*, “ that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on ——— wheresoever, &c. (557.) to restore and make satisfaction to the said *C. D.* of the said ———*l.*”) : And in what manner you shall execute this our writ, make appear to us, on ———, wheresoever, &c. (*id.*) ; and have there this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 150.)
The like, after
judgment re-
versed, in the
Exchequer
chamber.

Prac. 1186.

George the Fourth, &c. (352.) To the sheriff of ———, greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* ———*l.* for his damages, &c. (352.) ; whereof the said *C. D.* was convicted, as appears to us of record : And afterwards, to wit, on the ——— day of ——— in the ——— year of our reign, the transcript of the record and proceedings aforesaid, with all things concerning the same, by virtue of our certain writ for correcting error, prosecuted by the said *C. D.* in the premises, was transmitted from our said court before us, before our justices of the Common Bench and the barons of our Exchequer of the degree of the coif, in the Exchequer chamber, according to the form of the statute made in the parliament of the lady *Elizabeth* late Queen of *England*, holden at *Westminster*, on the 23d day of *November*, in the twenty seventh year of her reign : And afterwards, to wit, on the ——— day of ———, in the ——— year of our reign aforesaid, before our said justices of the Common Bench and barons of our Exchequer, in the Exchequer chamber aforesaid, it was considered that the judgment aforesaid, for divers errors in the record and proceedings aforesaid, should be reversed, annulled, and altogether held for nothing, and that the said *C. D.* should be restored to all things which he had lost by occasion of the judgment aforesaid : And afterwards the record aforesaid, with the proceedings thereupon had in the premises, before the said justices and barons of the Exchequer aforesaid, the same justices and barons have remitted before us at *Westminster* aforesaid, according to the form of the statute aforesaid, and they now remain in our same court before us : And now, on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* on pretence of the said former judgment,

hath had his execution of the damages aforesaid, and is yet possessed thereof: Therefore we command you, &c. (*as in the last, making the writ returnable on a day certain.*)

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George the Fourth, &c. (352.) To the sheriff of —, greeting: If *C. D.* shall give you security that his suit shall be prosecuted, then in your full county cause the plaint to be recorded, which was in the same county, without our writ, between *A. B.* and the said *C. D.* of a certain trespass on the case, done to the said *A. B.* by the said *C. D.* as it is said, wherein the said *C. D.* complaineth, that false judgment hath been given against him in the said county; and that you have the said record before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful knights of the same county, of such as shall be present at the said recording; and summon by good summoners, the said *A. B.* that he be then there, to hear the said record; and have you there the summoners, the names of the said four knights, and this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

(§ 151.)
Writ of false
judgment.
Prac. 1134.
1187, 8.

By the lord chancellor of *Great Britain*, at the instance of the defendant.

Upon reading the affidavit of *E. F.* it is ordered, that the defendant, within six days after notice of this rule, to be given to his attorney or agent, do peremptorily file of record in this court, the writ of false judgment, issued between the said parties, directed to the sheriff of —; or, in default thereof, that a writ of *procedendo* be issued forthwith to the said defendant.

(§ 152.)
Rule to return
same, in *C. P.*
Prac. 484. 1188.

By virtue of this writ, to me directed, I have in my full county, held at —, the — day of —, in the — year of the reign of our sovereign lord George the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, caused the plaint to be recorded, whereof mention is within made; and I have the record of the same plaint before our said lord the king, on the day within contained, under my seal, and the seals of four lawful knights of my said county, of such as were present at the said recording: And, by — and —, I have summoned the within-named *A. B.* that he be before our said lord the king, (*or, in C. P.* “before the justices of our said lord the king,”) on the day aforesaid, to hear the said record, as by this writ I am commanded; which said record is contained in a schedule to this writ annexed.

(§ 153.)
Return to writ
of false judg-
ment.
Prac. 1188.

Z. A. sheriff.

— to wit. The — county court of *I. K.* Esquire, sheriff of the county aforesaid, held at — in and for the said county, and within the jurisdiction of the same court, according to the custom of the said court, from time whereof the memory of man is not to the contrary there used and approved of in the same court, on — the — day of — in the — year of the reign of our sovereign lord George the Fourth, by the

(§ 154.)
Proceedings in
the county
court, from
levying the
plaint, to final
judgment after
verdict.
Prac. 1188.

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grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our Lord 18—, before *L. M.* (&c.) freeholders within the said county, and suitors of the same court. Be it remembered, that at this court, comes here *A. B.* in his proper person, and now in the same court here, levies his plaint against *C. D.* of a plea of trespass on the case, to the damage of the said *A. B.* of thirty nine shillings and eleven pence ; and in the same court here, finds pledges to prosecute his said plaint, to wit, *John Doe* and *Richard Roe* ; and now in the same court here, prays the process of the same court here to be made to him thereon against the said *C. D.* in the plea of his said plaint ; and it is granted to him, &c. And upon this it is, in and by the same court here, commanded to —, one of the bailiffs errant of the said *I. K.* sheriff of the said county, and minister of the same court here, that he summon by good summoners, the said *C. D.* within the jurisdiction of the same court, that he be and appear at the next court of the county aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — next ensuing, to answer to the said *A. B.* in the plea of his said plaint ; and what the said minister shall do thereon, that he certify to the same next court ; the same day is in and by the same court here given to the said *A. B.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the said — year of the reign of our said lord the now king, before *N. O.* (&c.) freeholders within the said county, and suitors of the same court, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea of his said plaint ; and the said —, bailiff and minister of the same court, now returns to the same court here, the aforesaid precept to him in form aforesaid directed, in all things served and executed, to wit, that he by virtue of that precept, to him in form aforesaid directed, by — and — good summoners, hath summoned the said *C. D.* within the jurisdiction of the said court, that he be and appear at the same next court, to answer the said *A. B.* in the plea of the said plaint, as he was commanded : Whereupon the said *C. D.* being solemnly called, comes into this same court here, in his proper person ; and thereupon the said *A. B.* in this same court, puts in his place *E. F.* his attorney, against the said *C. D.* in the plea of the said plaint ; and the said *C. D.* in this same court here, puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea of the said plaint ; and thereupon the said *A. B.* prays a day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing ; and he hath it, &c. ; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in

and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —, in the — year of the reign of our said lord the now king, before *P. Q.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and hereupon the said *A. B.* prays a further day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, sheriff of the said county, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *R. S.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: And thereupon the said *A. B.* by his said attorney, now declares here in this same court against the said *C. D.* in the plea of the said plaint, in manner and form following, that is to say: In the county court. *A. B.* complains against *C. D.* of a plea of trespass on the case; for that whereas, &c. (*here copy the declaration.*) And thereupon the said *C. D.* prays leave to imparl thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit, at — aforesaid in the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *A. B.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —, in the — year of the reign of our said lord the now king, before *T. U.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon the said *C. D.* by his attorney aforesaid, defends the wrong and injury, when, &c. and saith, that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country, &c. And hereupon the said *A. B.* prays leave to reply thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit, at — aforesaid in the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —, in the — year of the

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reign of our said lord the now king, before *V. W.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; and thereupon the said *A. B.* doth likewise put himself upon the country: Therefore, to try the issue above joined between the parties aforesaid, it is commanded by the court here, to — and —, bailiffs and ministers of the aforesaid court, that they cause to come at the next court, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given in and by the said court here to the parties aforesaid, to be there, &c. At which same next court, to wit, at the — county court of the said *I. K.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —, in the — year of the reign of our said lord the now king, before *X. Y.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; and the said — and —, bailiffs and ministers of the aforesaid court, to whom, &c. have not returned the aforesaid precept, nor have they or either of them done any thing thereon: Therefore, as before, it is commanded by the court here, to the aforesaid — and —, bailiffs and ministers of the same court, that they cause to come at the next court to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given in and by the said court here to the parties aforesaid, to be there, &c. Before which said next court, the aforesaid *I. K.* was in due manner removed from his said office of sheriff of the county aforesaid, and *Z. A.* Esquire, was duly chosen, constituted and appointed sheriff of the said county, in the lieu and stead of the said *I. K.* At which same next court, to wit, at the first county court of the said *Z. A.* Esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —, in the — year of the reign of our said lord the now king, before *B. C.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; and the said — and —, bailiffs and ministers of the court aforesaid, have sent here the aforesaid precept, to them in form aforesaid directed, in all things served and executed, together with a panel of the names of twelve honest and lawful men of the county aforesaid, and within the jurisdiction of the said court, and who are in no wise of kin either to the said *A. B.* or to the said *C. D.* impanelled to recognize in form aforesaid, between the parties aforesaid: And those jurors, in form aforesaid so im-

panelled, namely, *D. E. (&c.)*, being solemnly called in the same court, appear; who being chosen tried and sworn by the same court here, to speak the truth of the premises above contained and put in issue between the said parties, upon their oath say, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him; and they assess the damages of the said *A. B.* by reason of the premises aforesaid, over and above his costs and charges by him laid out about his suit in this behalf, to — *s.* and for those costs and charges to — pence: And thereupon the said *A. B.* prays the judgment of the court here, of and upon the premises aforesaid: But because the court now here hath not yet determined what judgment to give in the premises, a day is therefore given by this court, as well to the said *A. B.* as to the said *C. D.* until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of this court, on — the — day of — next ensuing, for hearing the judgment of the said court thereupon, for that this court hath not yet thereof determined, &c. At which same next court, to wit, at the second county court of the said *Z. A.* sheriff of the county aforesaid, held at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the said — year of the reign of our said lord the now king, before *F. G. (&c.)* freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: And thereupon all and singular the premises aforesaid being seen and inspected, and by the court here fully understood, and mature deliberation being thereupon had, it is considered in and by the same court here, that the said *A. B.* do recover against the said *C. D.* his damages costs and charges, in form aforesaid assessed by the said jury, to — and also — *l.* for his costs and charges aforesaid, by the said court here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.*; and the said *C. D.* in mercy, &c. *Z. A. sheriff*

<p><i>C. D.</i> v. <i>A. B.</i> upon a writ of false judgment.</p>	}	<p>Unless the defendant, within <i>four</i> days next after notice of this rule, to him or his attorney or agent given, shall assign errors in this cause, let there be a writ of execution upon the judgment in the county court of —.</p>
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(§ 155.)
Rule to assign errors, upon a writ of false judgment, in C. P.

By the Court.

Prac. 484.
1188.

Side bar, at the plaintiff's instance.

And hereupon the said *C. D.* says, that the record aforesaid is vicious, and in many respects defective, and that false judgment is given against him in and upon the plaint aforesaid, in this, to wit, that the consideration of and for the supposed promises and undertakings in the said declaration mentioned, is not stated or alleged, nor does the same appear in or by the said declaration, to have arisen or happened within the jurisdiction of the county court of the sheriff of the county aforesaid;

(§ 156.)
Assignment of false judgment.
Prac. 1188.

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and also in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.*; whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*: And so the said *C. D.* says, that in the said court of the said county, false judgment hath in divers instances been given against him in the plaint aforesaid; and he prays that the said judgment, for the above and other defects in the record aforesaid, may be reversed, annulled, and altogether held for nothing, as being false and of no effect, and that the said *C. D.* may be restored to all things which he has lost by occasion of the said judgment, &c.

Thomas Denman.

(§ 157.)
Joinder.
Prac. 1168.

And the said *A. B.* says, that the said record is in no wise vicious or defective, nor is any false judgment given against the said *C. D.* in or upon the plaint aforesaid; and he prays that the said court here may proceed to the examination of the said record, and to the reformation and correction of the false judgment, if any shall be found or appear to be given therein, &c. But because, &c. (237, 8.)

(§ 158.)
Return to writ
of false judg-
ment, for re-
moving pro-
ceedings com-
menced by *jus-
tices*, in the
county court
of *Lancashire*,
to the Common
Pleas at *Lan-
caster*.

Prac. 1188.

By virtue of this writ to me directed, I have in my open county court, held in the Sessions Hall in *Preston*, in and for the said county of *Lancaster*, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, caused the plaint to be recorded, whereof mention is within made; and I have the record of the same plaint, before his majesty's justices at *Lancaster*, on the day within contained, under my seal, and the seals of four lawful men of the said county, of those who were present at the said recording; and by — and —, I have summoned the within-named *A. B.* that he be before his said majesty's justices at *Lancaster*, on the day aforesaid, to hear the said record, as by this writ I am commanded; which said record is contained in a schedule to this writ annexed.

L. M. sheriff.

Lancashire, to wit. Plaint by writ, in the — county court of *I. K.* Esquire, late sheriff of the county of *Lancaster*, holden at the Sessions Hall in *Preston*, in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, (*the day on which the writ of justices was brought into court,*) before — and —, suitors of the same court.

At this court, comes here, *A. B.* in his proper person; and brings into the same court here, the writ of our said lord the now king of *justices*, directed to the sheriff of *Lancashire*; which said writ follows in these words, that is to say: *George* the Fourth, by the grace of God, &c. (*here copy the writ of justices, verbatim:*) And the said *A. B.* in the same court here, found pledges to prosecute his plaint, to wit, *John Doe* and *Richard Roe*; and upon this the said *A. B.* puts in his place *E. F.* his

attorney, against the said *C. D.* in the plea of the said plaint; and by his said attorney, prays the process of the same court to be made to him thereupon against the said *C. D.* in the plea aforesaid; and it is granted to him, &c.; and upon this it is, in and by the same court here, commanded to — and —, the said sheriff's bailiffs for that turn only, jointly and separately, according to the custom of the said court, that they or some of them attach the said *C. D.* by his goods and chattels, so that he appear at the next county court to be holden for the said county, to answer the said *A. B.* in the plea of his said plaint; the same day is given in and by the same court here, to the said *A. B.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* Esquire, late sheriff of the county aforesaid, holden at the Sessions Hall in *Preston* aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of —, (*the next court after the warrant issued,*) in the said — year of the reign of our said lord the king, before — and —, suitors of the same court, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* in the plea of the said plaint; and the said — and —, bailiffs as aforesaid, now return to the same court here, the aforesaid precept, to them in form aforesaid directed, in all things served and executed: Whereupon the said *C. D.* being solemnly called, comes into the same court here, in his proper person; and puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea of the said plaint; and by his said attorney, prays that the said *A. B.* may declare against him upon his plaint aforesaid: And thereupon the said *A. B.* by his said attorney, now declares here, in this same court, against the said *C. D.* in the plea of his said plaint, in manner and form following, (that is to say): *Lancashire*, to wit. *C. D.* was attached, &c. (*here copy the declaration, plea and replication, which were all entered of the same court day, verbatim:*) And the said *C. D.* doth so likewise: Therefore, to try the issue above joined between the parties aforesaid, it is commanded by the court here, to — and —, bailiffs and ministers of the aforesaid court, that they cause to come at the next court, to be holden at the Sessions Hall in *Preston* aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given, in and by the same court here, to the parties aforesaid, to be there, &c. Before which said next court, the said *I. K.* Esquire was in due manner removed from his said office of sheriff of the county aforesaid, and *L. M.* Esquire was duly chosen constituted and appointed sheriff of the same county, in the lieu and stead of the said *I. K.* Esquire: At which same court, to wit, at the first county court of the said *L. M.* Esquire, sheriff of the said county, holden at the Sessions Hall in *Preston* aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the said — year of the reign of our said lord the king, before —

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and —, suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said — and —, bailiffs and ministers of the court aforesaid, have sent here the aforesaid precept, to them in form aforesaid directed, in all things served and executed, together with a panel of the names of twelve honest and lawful men of the county aforesaid, and within the jurisdiction of the same court, who are in no wise akin either to the said *A. B.* or to the said *C. D.* impanelled to recognize in form aforesaid, between the parties aforesaid: and those jurors, in form aforesaid impanelled, namely, *N. O. &c.* (*here insert the names of the jurors who tried the cause.*) being solemnly called in the same court, appear; who being chosen tried and sworn by the same court here, to speak the truth of the premises above contained and put in issue between the said parties, upon their oath say, that the said several promises and undertakings in the said declaration mentioned, were not, nor was any of them, made as well by the said *I. S.* as by the said *C. D.* jointly, but that the same were, and each and every of them was, made by the said *C. D.* solely, in manner and form as by the said plaint is above alleged; and they assess the damages of the said *A. B.* by reason of the premises aforesaid, over and above his costs and charges by him laid out about his suit in this behalf, to —*l.* and for those costs and charges to —*s.* And upon this the said *A. B.* prays the judgment of the court here, of and upon the premises: And thereupon, all and singular the premises aforesaid being seen and inspected, and by the court here fully understood, and mature deliberation being thereupon had, it is considered in and by the same court here, that the said *A. B.* do recover against the said *C. D.* his damages costs and charges, in form aforesaid assessed by the said jury, to —*l.* and also —*l.* for his said costs and charges, by the said court here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c. *L. M. sheriff.*

(§ 159.)
Assignment of
false judgment,
for various
causes, in an in-
ferior court.

Prac. 1188.

And hereupon the said *C. D.* says, that the record aforesaid is vicious, and in many respects defective, and that false judgment is given against him in and upon the plaint aforesaid, in this, to wit, that it does not appear by the record aforesaid, that the said *A. B.* put in his place the said *E. F.* his attorney, against the said *C. D.* in the plea aforesaid, or that the said *C. D.* put in his place the said *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid; and also in this, to wit, that it does not appear by the said record, that the said *C. D.* appeared in the said court of our said lord the king of his wapentake aforesaid, holden at the borough of — aforesaid, in and for the said wapentake, at the return of the said precept in the said record in that behalf mentioned, to answer the said *A. B.* in the plea aforesaid; and also in this, to wit, that no day is given by the said record, to the said *C. D.* to appear at the said last-mentioned court, but it is thereby alleged, that the said *A. B.* had leave to imparl until the said — day of — in the year aforesaid, and then to answer; and also in this, to wit, that it does not appear by the said record, that the said *A. B.* declared upon the said plaint against the said

C. D. in the plea aforesaid ; and also in this, to wit, that the bill aforesaid, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action against the said *C. D.* ; and also in this, to wit, that it does not appear by the said record, that the said plea was regularly continued from the said last-mentioned court, until the court of our said lord the king, holden at — aforesaid, in and for the said wapentake, on the said — day of —, in the said year of our Lord 18— ; and also in this, to wit, that the said record does not contain any panel of the names of the jurors aforesaid, nor does it appear thereby, that any precept issued to summon the said jurors, or that such precept was duly served and executed ; and also in this, to wit, that no judgment appears to have been given for the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, or that the said *C. D.* should be in mercy ; and also in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* ; whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* : And so the said *C. D.* says, that in the said court of our said lord the king of his wapentake aforesaid, holden at the borough of — aforesaid, in and for the said wapentake, false judgment hath in divers instances been given, &c. (*as before, p. 564.*)

John Campbell.

CHAP. XLV.

PROCEEDINGS *on a DISTRESS for RENT ; and in the* ACTION *of* REPLEVIN, &c.

(§ 1.)
Warrant to dis-
train for rent.

I HEREBY authorize and require you to distrain the goods and chattels, in the dwelling house (*or*, "in and upon the farm, lands and premises") of *A. B.* situate at — in the county of —, for —*l.* being — years rent, due to me for the same, at — last ; and to proceed thereon, for the recovery of the said rent, as the law directs. Dated the — day of — 18—. Your's, &c.

To *E. F.* my bailiff.

C. D.

(§ 2.)
Inventory of
the goods dis-
trained.

An inventory of the several goods and chattels distrained by me *C. D.* (*or*, "*E. F.*" the bailiff,) the — day of — in the year of our Lord 18—, in the dwelling house, &c. (*describing the premises*), of *A. B.* situate at — in the county of —, (*and, if the distress be made by a bailiff, say*, "by the authority and on the behalf of *C. D.*") for the sum of —*l.* being — years rent due to me, (*or*, "to the said *C. D.*") at — last.

In the Dwelling house.

In the Parlour : One table, &c. (setting out the goods.)

(§ 3.)
Notice of dis-
tress.

Mr. A. B.

Take notice, that I have this day distrained, (*or*, "that as bailiff to *C. D.* your landlord, I have this day distrained,") on the premises above mentioned, the several goods and chattels specified in the above inventory, for the sum of —*l.* being — years rent due to me, (*or*, "to the said *C. D.*") at — last, for the said premises ; and that unless you pay the said rent, with the charges of distraining for the same, within *five* days from the date hereof, the said goods and chattels will be appraised and sold, according to law. Given under my hand, the — day of — in the year of our Lord 18—. *C. D.*

Witness, *R. S.*

Mr. A. B.

(§ 4.)
The like, for
growing crops,
on stat. 11 Geo.
II. c. 19. § 8.

Take notice, that I have this day taken and distrained, (*or*, "that as bailiff to *C. D.* your landlord, I have taken and distrained,") on the lands and premises above mentioned, the several growing crops specified in the above inventory, for the sum of —*l.* &c. (*as in last*), for the said lands and premises ; and that unless you previously pay the said rent, with the charges of distraining for the same, I shall proceed to cut, gather, make, cure, carry and lay up the said crops, when ripe, in the barn, or other

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proper place, on the said premises, and in convenient time to appraise, sell and dispose of the same, towards satisfaction of the said rent, and of the charges of such distress, appraisalment and sale, according to the form of the statute in such case made and provided. Given under my hand, &c. (*as in the last.*)

Take notice, that by the order and on behalf of *C. D.* I have this day taken and distrained, in and upon the farm and lands called —, in your occupation, in the parish of — in the county of —, all the corn, grain and effects, in the inventory hereunder written mentioned, for the sum of —*l.* being — years annuity or rent-charge of —*l. per annum*, due to the said *C. D.* at — last, and charged on, and issuing and payable out of, certain manors, farms, lands and premises called —, in the said parish of — in the county of — aforesaid, of which the farm and lands first above mentioned are part and parcel; and that unless the said arrears of the said annuity or rent-charge, together with the expenses of this distress, are paid and satisfied, the said corn grain and effects will be disposed of according to law. Dated, &c. (568.) *E. F.*

(§ 5.)
The like, for
the arrears of
a rent-charge.

To Mr. *A. B.* and all whom

it may concern.

Memorandum, that I *A. B.* do hereby consent and agree, that *C. D.* my landlord, who hath distrained my goods and chattels for rent, in a dwelling house, &c. (*describing the premises*), situate at — in the county of —, shall continue in possession of my said goods and chattels, in the said dwelling house, (&c.) for the space of — days from the date hereof; the said *C. D.* having agreed to forbear the sale of the said goods and chattels, for the said space of time, to enable me to discharge the said rent: And I the said *A. B.* do hereby agree to pay the expenses of keeping the said possession. As witness my hand, the — day of — in the year of our Lord 18—. *A. B.*

(§ 6.)
Memorandum
of tenant's
consent, to the
landlord's con-
tinuing in pos-
session.

You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory, (*the constable at the same time holding the inventory in his hand, and shewing it to the appraisers*), according to the best of your judgment. So help you God.

(§ 7.)
Appraisers'
oath.

Memorandum, that on — the — day of — in the year of our Lord 18—, *G. H.* of — and *I. K.* of —, two sworn appraisers, were sworn upon the holy evangelists, by me *L. M.* of — constable, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of their judgment. As witness my hand.

(§ 8.)
Memorandum
thereof.

L. M. constable.

Present, at the time of
swearing the said *G. H.*
and *I. K.* as above, and
witnesses thereto. *N. O.*
P. Q.

We the above-named *G. H.* and *I. K.* being sworn upon the holy evangelists, by *L. M.* the constable above named, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best

(§ 9.)
Form of ap-
praisalment.

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of our judgment, and having viewed the said goods and chattels, do appraise and value the same at the sum of ——. As witness our hands, the — day of — in the year of our Lord 18—.

G. H.

Witness,

I. K.

R. S.

Sworn appraisers.

(The last two forms are usually written on the inventory.)

(§ 10.)
Deputation, to
grant replevins.

— (to wit.) W. P. Esquire, sheriff of the county aforesaid, to R. S. gentleman: I do hereby appoint you one of my deputies, for making or granting replevins within the said county, pursuant to the statute in that case made and provided; and for your so doing, this shall be your sufficient warrant and authority. Given under the seal of my office, the — day of — 18—. By the same sheriff.

(§ 11.)
Writ of replevin.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that justly and without delay, you cause to be replevied to A. B. his cattle goods and chattels, which C. D. took and unjustly detains, as it is said; and afterwards cause him to be justly remedied in this behalf, that we may no longer hear any clamour thereupon, for want of justice. Witness ourself at Westminster, the — day of —, in the — year of our reign.

(§ 12.)
Alias.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, as before you were commanded, that justly, &c. (*reciting the former writ, to the end,*) or signify to us the cause, wherefore you would not or could not execute our mandate to you thereupon before directed. Witness ourself, &c. (*as in last.*)

(§ 13.)
Pluries.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we have oftentimes commanded you, that justly, &c. (*reciting the alias, to the end:*) And you disregarding our aforesaid mandates, as we have heard, have not hitherto taken care to replevy to the said A. B. his cattle goods and chattels aforesaid, or at least to signify to us the cause, wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates, and to the great damage and injury of the said A. B. at which we are greatly surprised and offended: We therefore command you, firmly injoining you, that you cause to be replevied to the said A. B. his cattle goods and chattels aforesaid, according to the tenor of our aforesaid mandates, to you thereupon before directed, or that you be yourself before us, on —, wheresoever we shall then be in England, (*or, in C. P. "before our justices at Westminster, on —,"*) to shew why you have neglected to execute our aforesaid mandates, to you thereupon so often directed; and have there this writ. Witness ourself, &c. (*as above.*)

(§ 14.)
Plaint in replevin.

— (to wit.) A. B. complains of C. D. in a plea of taking and unjustly detaining his cattle goods and chattels, against gages and pledges, &c.

Pledges to prosecute,

{ John Doe,
and
Richard Roe.

Know all men by these presents, that we *A. B.* of —, *W. G.* of —, and *T. S.* of —, are jointly and severally held and firmly bound to *W. P.* Esquire, sheriff of the county of —, in the sum of —*l.* (*the full value of the cattle or goods distrained, if taken damage feasant; or, if the distress was for rent, double the value of the cattle or goods, by the statute 11 Geo. 2. c. 19. § 23.*) of lawful money of the united kingdom of Great Britain and Ireland, current in England, to be paid to the said sheriff, or his certain attorney, executors, administrators or assignus; for which payment, to be well and truly made, we bind ourselves, and each and every of us in the whole, our and each and every of our heirs, executors and administrators, firmly by these presents: Sealed with our seals. Dated, &c. (90.)

(§ 15.)
Replevin bond.
Prac. 1038, 9.

The condition of this obligation is such, that if the above-bounden *A. B.* do appear, at the next county court, to be holden for the county of —, at —, on the — day of — next, and do then and there prosecute his suit with effect and without delay, against *C. D.* for the taking and unjustly detaining of his cattle goods and chattels, to wit, (*here set forth the cattle or goods distrained,*) and do make return of the said cattle goods and chattels, if a return thereof shall be adjudged; that then this present obligation shall be void, and of none effect, or else to be and remain in full force and virtue.

Scaled, &c. (90.)

Know all men by these presents, that I *W. P.* Esquire, sheriff of the county of —, have at the request of the within-named *C. D.* the avowant (*or, "person making cognizance"*) in this cause, assigned over this replevin bond unto him the said *C. D.* pursuant to the statute in such case made and provided. In witness whereof, I have hereunto set my hand and seal of office, this — day of — 18—.

(§ 16.)
Assignment
thereof.
Prac. 1038, 9.

Scaled, &c. (90.)

— (to wit.) *W. P.* Esquire, sheriff of the county aforesaid, to the bailiff of the hundred of — in the said county, and to *John Doe* and *Richard Roe* my bailiffs, and to every of them, jointly and severally, greeting: Forasmuch as *A. B.* hath found me sufficient security, as well for prosecuting his suit with effect against *C. D.* for taking and unjustly detaining his cattle, goods and chattels, to wit, &c. (*setting out the cattle and goods,*) which the said *C. D.* hath taken and unjustly detains, as it is said, as also for making return thereof, if return thereof shall be adjudged; therefore, on behalf of the said *A. B.* I command you, and every of you. jointly and severally, that without delay you replevy, and cause to be delivered to the said *A. B.* his said cattle, goods and chattels; and that you immediately summon the said *C. D.* to appear at my next county court, to be holden at —, in and for the said county, to answer the said *A. B.* in the plea aforesaid; and in what manner you shall have executed this precept, certify to me at my said next county court, to be holden at the time and place aforesaid, under the peril attending the neglect thereof. Given under the seal of my office, this — day of — in the year of our Lord 18—.

(§ 17.)
Precept, or war-
rant, to replevy.

(§ 18.)
Summons
thereon.

— (to wit.) By virtue of a warrant from the sheriff of the county of —, to me directed, I summon you to appear at the next county court, to be holden at — in and for the county aforesaid, to answer *A. B.* in a plea of taking and unjustly detaining his cattle, goods and chattels. Dated the — day of — 18—. *M. E. bailiff.*

To Mr. *C. D.*

(§ 19.)
Capius in withernam, on a writ
of *pluries replevin*.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas we have oftentimes commanded you, that justly and without delay, you should cause to be replevied to *A. B.* his cattle, goods and chattels, to wit, &c. (*setting out the cattle and goods,*) which *C. D.* hath taken and unjustly detained, as it is said, according to our writ to you before directed, or that you should be yourself before us on —, wheresoever, &c. (570.) to shew why you neglected to execute our mandates, to you thereupon so often directed : And you at that day returned to us, that the cattle, goods and chattels aforesaid were cloigned by the said *C. D.* out of your bailiwick, to places to you unknown, so that you could in no wise replevy the same to the said *A. B.* : Therefore we command you, that you take in *withernam*, the cattle, goods and chattels of the said *C. D.* in your bailiwick, to the value of the cattle, goods and chattels, by him the said *C. D.* before taken, and deliver them to the said *A. B.* to be kept by him, until the said *C. D.* will deliver the aforesaid cattle, goods and chattels, to the said *A. B.* : And in what manner you shall have executed this our writ, make appear to us on —, wheresoever, &c. (*or, in C. P. "to our justices at Westminster, on —,"*) that we may cause to be further done thereupon, what of right, and according to the law and custom of *England*, we shall see meet to be done. We also command you, that if the said *A. B.* shall make you secure of prosecuting his claim, and of returning the cattle, goods and chattels aforesaid, if a return thereof shall be adjudged, then that you put by gages and safe pledges, the said *C. D.* that he be before us, (*or, in C. P. "before our said justices,"*) at the time last aforesaid, to answer to the said *A. B.* of the taking and unjustly detaining of his cattle, goods and chattels aforesaid ; and have there this writ. Witness, &c. (574.)

20.)

Precept, in nature of a *withernam*, by the sheriff, on a plaint.

— (to wit.) *W. P. Esquire*, high sheriff of the said county, to all and singular my bailiffs of the said county, greeting : Forasmuch as *A. B.* hath found me sufficient security, as well to prosecute his plaint against *C. D.* for taking and unjustly detaining his cattle, goods and chattels, to wit, &c. (*setting out the cattle and goods,*) as to make return thereof, if return thereof shall be adjudged ; and thereupon, by virtue of my office, I have often commanded you, and every of you, that you or some or one of you should cause to be replevied to the said *A. B.* his aforesaid cattle, goods and chattels, which the said *C. D.* hath taken and unjustly detains, as it is said : And you, upon my several precepts of replevin, to you directed as aforesaid, have certified, that the cattle goods and chattels aforesaid are eloigned to places to you unknown, so that you cannot replevy the same to the said *A. B.* : Therefore I now command you, and every of you, that you, or some or one of you, do take in *withernam* the cattle,

goods and chattels of the said *C. D.* to the value of the said cattle, goods and chattels so eloigned as aforesaid, and deliver the same to the said *A. B.* for his cattle, goods and chattels last aforesaid; and also that you put by gages and safe pledges, the said *C. D.* so that he be and appear at my next county court, to be holden at —, in and for the said county, on the — day of — next, to answer to the said *A. B.* of the plea aforesaid; and that you, or one of you, return an answer to this my mandate, at my said next county court. Given under the seal of my office, &c. (571.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas you were oftentimes commanded, ~~that~~ justly and without delay you should cause to be replevied to *A. B.* his cattle, goods and chattels, to wit, &c. (*setting out the cattle and goods,*) which *C. D.* had taken and unjustly detained, as it was said, or that you should signify to us the cause, wherefore you would not or could not execute our mandate, to you thereupon before directed: And you, disregarding our aforesaid mandates, as we were informed, neglected to replevy the aforesaid cattle, goods and chattels, to the said *A. B.* or to signify to us the cause wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates, and to the great damage and injury of the said *A. B.* at which we were greatly surprised and offended: We therefore commanded and firmly enjoined you, that you should cause to be replevied to the said *A. B.* his cattle, goods and chattels aforesaid, according to the tenor of our mandates aforesaid, to you thereupon before directed, or that you should be yourself before us, on —, wheresoever we should then be in *England*, (*or, in C. P. "before our justices at Westminster, on —,"*) to shew wherefore our aforesaid mandates to you thereupon directed, you had so often neglected or been unable to execute: And you at that day returned to us, (*or, in C. P. "to our justices at Westminster,"*) that one *P. L.* claimed the property of the cattle, goods and chattels aforesaid to belong to him, whereby you had not then been able to replevy the aforesaid cattle, goods and chattels to the said *A. B.* and that no other writ for replevying the same had been delivered to you: We therefore, being unwilling that the said *A. B.* should by such false suggestion be defrauded of his cattle, goods and chattels aforesaid, whereby, if they belong to him, they cannot be replevied, according to the law and custom of *England*, command you, that taking with you the keeper of the pleas of our crown of the county aforesaid, in the presence of the said *C. D.* if he will attend, after being summoned by you in that behalf, you diligently inquire, by the oath of good and lawful men of your bailiwick, by whom, &c. (407.) whether the cattle, goods and chattels aforesaid, so taken and detained, are the cattle, goods and chattels of the said *A. B.* or of the said *P. L.* And if by that inquisition it shall appear to you, that the cattle, goods and chattels aforesaid are the cattle, goods and chattels of the said *A. B.* then that you cause them to be replevied to the said *A. B.* according to the tenor of our mandates, to you thereupon formerly directed: And nevertheless, if the said *A. B.* shall make you secure, &c. (572.) then that you attach the

(§ 21.)
Writ de propri-
etate proban-
dā, after a writ
of *pluries* reple-
vin.

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said *P. L.* so that you may have him before us on —, wheresoever, &c. (570.) to answer as well to us for his contempt in this behalf, as to the said *A. B.* for the damage which he has sustained on occasion of the claim aforesaid: We likewise command you, that you put by gages and safe pledges, the said *C. D.* that he be before us, (or, in *C. P.* “before our said justices,”) at the time aforesaid, to answer to the said *A. B.* of a plea wherefore he took the aforesaid cattle, goods and chattels, and unjustly detained them, as it is said; and have there the names of the pledges, and this writ. Witness *Charles Lord Tenterden*, (or, in *C. P.* *Sir William Draper Best* knight,) at *Westminster*, the — day of —, in the — year of our reign.

(§ 22.)
Declaration, in
county court.
Prac. 417.

In the County court of —.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the goods and chattels of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c.; and thereupon the said *A. B.* by *E. F.* his attorney complains, that the said *C. D.* on the — day of —, in the year of our Lord 18—, at the parish of — in the county of —, and within the jurisdiction of this court, in a certain dwelling house there, took the goods and chattels, to wit, &c. (*here state the goods*,) of the said *A. B.* of great value, to wit, of the value of —*l.* and there unjustly detained the same against gages and pledges, until, &c.; wherefore the said *A. B.* saith that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

(§ 23.)
Judgment of
non pros, for
not declaring in
county court.
Prac. 418, 931.

At a county court, holden in and for the county of —, the — day of — in the year of our Lord 18—, at the office of the sheriff of the county of —, situate in — in the same county, and within the jurisdiction of the said court, before —, sheriff of the said county of —, and *E. F. G. H. I. K.* and *L. M.* free suitors of the said court.

County court of } Be it remembered, that at this court, comes here
—, to wit. } into court *A. B.* in his proper person, and levies his
plaint against *C. D.* of a plea of taking and unjustly detaining the goods
and chattels of the said *A. B.* against gages and pledges, until, &c.: And
now here, in this court, the said *A. B.* finds pledges to prosecute his said
plaint, to wit, *John Doe* and *Richard Roe*. And the said *C. D.* by —
his attorney, at this same court, comes into court here, and defends the
wrong and injury, when, &c. and prays that the said *A. B.* may declare
in the plea of his said plaint; and thereupon it is ordered by the said
court here, that the said *A. B.* do declare in the said plea of his said plaint,
at the next county court of the said sheriff, to be holden in and for the
said county of —; the same day is given in the said court here, as
well to the said *A. B.* as to the said *C. D.* there, &c.

At which next county court, to wit, at a county court holden in and for the said county of —, at the said office of the said sheriff of —, situate in — in the same county, and within the jurisdiction of the

said court, the — day of — in the year of our Lord 18—, before the said — sheriff of the said county of —, and the said *E. F.*, &c. free suitors of the said court, comes the said *C. D.* by his attorney aforesaid ; and the said *A. B.* doth not come into this court here, to prosecute his said plaint levied against the said *C. D.* in manner aforesaid ; and the said *A. B.* hath not declared, in the said plea of the said plaint, against the said *C. D.* but hath therein wholly failed and made default : Therefore it is considered by this court here, that the said *A. B.* take nothing by his said plaint, but that he and his pledges to prosecute be in mercy ; and that the said *C. D.* do go thereof without day, and that he have a return of the said goods and chattels, &c.

— (to wit.) The — county court of *I. K.* Esquire, sheriff of the county aforesaid, holden at — in —, in and for the said county, and within the jurisdiction of the same court, according to the custom of the said court, from time whereof the memory of man is not to the contrary there used and approved of in the same court, on — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before *L. M.* and *N. O.* freeholders of the said county, and suitors of the said court.

(§ 24.)
The like, another way, with continuance by *dis* *dat*us.
Pruc. 418. 931.

Be it remembered, that heretofore, to wit, on the — day of — in the year of our Lord 18—, at — aforesaid, came *A. B.* in his proper person, and then and there made and levied to and before the said *I. K.* then being sheriff of the county of — aforesaid, out of the county court of the said sheriff, his certain plaint against *C. D.* of a plea of taking and unjustly detaining the goods and chattels of the said *A. B.* to wit, &c. (*selling out the goods*), and then and there found pledges, as well to prosecute his suit with effect, as to make return of the said goods and chattels, if a return thereof should be adjudged by law, to wit, *E. F.* of —, and *G. H.* of — ; which said plaint is entered in the said court here, as follows :

— (to wit.) *A. B.* complains of *C. D.* of a plea of taking and unjustly detaining his goods and chattels, to wit, &c. (*selling out the goods*), and also found pledges as well to prosecute his suit with effect, as to make a return of the said goods and chattels, if a return thereof shall be adjudged by law, to wit, *E. F.* of —, and *G. H.* of — : And now, in the same court here, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea of his said plaint ; and the said *C. D.* having been duly summoned in that behalf, also comes into the same court here, in his proper person : And thereupon the said *A. B.* in this same court, puts in his place — his attorney, against the said *C. D.* in the plea of the said plaint ; and the said *C. D.* in the same court here, puts in his place — his attorney, at the suit of the said *A. B.* in the plea aforesaid : And thereupon the said *A. B.* prays a day to declare against the said *C. D.* in the plea of the said plaint here, until

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the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing ; and he hath it, &c. ; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — day of —, in the — year of the reign of our said lord the now king, before — and —, freeholders within the said county, and suitors of the same court, comes the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.* in the plea of his said plaint ; but the said *A. B.* although solemnly called, comes not, but makes default, nor does he further prosecute his plaint against the said *C. D.* : Therefore it is considered by the court here, that the said *A. B.* take nothing by his said plaint, but that he and his pledges to prosecute be in mercy, &c. ; and that the said *C. D.* do go thereof without day, &c. ; and that he have a return of the said goods and chattels, &c. It is also considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided ; and that the said *C. D.* have execution thereof, &c.

— (to wit.) *I. K.* Esquire, high sheriff of the said county, to all and singular my bailiffs of the said county, greeting : Whereas heretofore, to wit, at the — county court of *G. H.* Esquire, late sheriff of the county aforesaid, holden at — in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the — year of the reign of our lord the now king, before *L. M.* and *N. O.* free suitors of the same court, came *A. B.* in his proper person ; and then and there, in the same court, levied his plaint against *C. D.* as bailiff of *E. F.* of a plea of taking and unjustly detaining his goods and chattels, to wit, (*here set out the goods, as in the plaint :*) And afterwards, to wit, at the county court of the said *G. H.* late sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our said lord the king, before — and —, free suitors of the same court, the said *A. B.* declared in the said plea against the said *C. D.* as bailiff of the said *E. F.* that the said *C. D.* on the — day of — in the year of our Lord 18—, at the parish of — in the county of — aforesaid, and within the jurisdiction of the said court, in a certain dwelling house there, did take the aforesaid goods and chattels of the said *A. B.* and the same then and there unjustly detained against sureties and pledges, until, &c. as it was said : And afterwards, to wit, at the — county court of me the said *I. K.* sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our said lord the king, before — and

(§ 25.)
Precept of *re-torno habendo*, in the county court, on a judgment of *non pros*, for want of a plea in bar.

Prac. 993.
1098, 9.

—, free suitors of the same court, the said *C. D.* appearing in the said court, as bailiff of the said *E. F.* well acknowledged the taking of the said goods and chattels, in the said dwelling house in which, &c. and justly, &c. for certain rent due and in arrear from the said *A. B.* to the said *E. F.* for the said dwelling house in which, &c. with the appurtenances, held and enjoyed by the said *A. B.* under a certain demise thereof, for the space of — quarters of a year, next before and ending on the — day of — in the year of our Lord 18—: And such further proceedings were thereupon had, that afterwards, to wit, at the — county court of me the said *I. K.* sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the — year aforesaid, before — and —, free suitors of the same court, it was considered and adjudged by the same court, that the said *A. B.* should take nothing by his said plaint, but that he and his pledges to prosecute should be in mercy, &c.; and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the goods and chattels aforesaid, &c. Therefore I now command you, and every of you, that without delay you, or some or one of you, cause the said goods and chattels to be returned to the said *C. D.*; and that you do not deliver them, on the complaint of the said *A. B.* without my precept, which makes express mention of the judgment aforesaid: And in what manner you shall have executed this my precept, make appear to me, at my next county court, to be holden at — aforesaid, in and for the county aforesaid, on — the — day of — next. Given under the seal of my office, &c. (571.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Put, at the prayer of the plaintiff, before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle, goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and summon, by good summoners, the said *C. D.* that he be then there, to answer to the said *A. B.* thereupon; and have there the summoners, and this writ. Witness ourself, &c. (570.)

(§ 26.)
Pone, for the
plaintiff.
Prac. 414.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Put before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle, goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and apprise the said *A. B.* that he may be there, if he will, to prosecute his plaint aforesaid against the said *C. D.*; and have there this writ, and the other writ. Witness ourself, &c. (570.) And because *E. F.* clerk of —, sheriff of the county aforesaid, who frequently, in the ab-

(§ 27.)
The like, for
the defendant.
Prac. 414, 15.

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sence of the sheriff of that county, holds the pleas of the same county, is the kinsman of the said *A. B.* for which the same sheriff favours him the said *A. B.* in the plea aforesaid, as it is said; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not.

(§ 27. a.)
Certiorari, out
of Chancery, to
remove a *reple-*
vin cause from
sheriff's court
of London, into
the King's
Bench.

Prac. 397.

George the Fourth, &c. (352.) To the mayor and sheriffs of *London*, greeting: We being willing, for certain causes, to be certified of the record and process of a certain plaint, which is in our court before you, without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; do command you, that you distinctly and openly send the record and process of the said plaint, with all things touching the same, by whatsoever names the said parties are called therein, under your seals, to us in our Chancery, on —, wheresoever it shall then be, and this writ. Witness ourself, &c. (570.)

(§ 27. b.)
Return thereto.
Prac. 398.

Giltspur Street.—A plaint levied in the court of our sovereign lord *George the Fourth*, by the grace of God, &c. holden before — Esquire, one of the sheriffs of the city of *London*, in his Compter, situate in the parish of *St. Giles without Cripplegate*, in the ward of *Cripplegate without*, in the said city of *London*, on — the — day of —, in the — year of the reign of our said lord the king, the tenor whereof follows in these words, (that is to say:) — (to wit.) *A. B.* complains of *C. D.* concerning his goods and chattels following, that is to say, (*here set out the goods*;) by him taken and unjustly detained, at — in the parish of —, in the ward of —, in the said city of *London*; and there are pledges for the prosecution, and to make a return, if a return of the said goods and chattels shall be adjudged by law, (that is to say,) *I. K.* of —, and *L. M.* of —, to return, &c. Whereupon afterwards, to wit, on the day and year aforesaid, at the prayer of the said *A. B.* then made to the said sheriff, at his court holden at the said Compter, according to the custom of the said city, it is commanded by the aforesaid sheriff, to *N. O.* one of the serjeants at mace of the said sheriff, and a minister of the said court, that he, according to the custom of the said city, do make replevin, appraisement and delivery, of the goods and chattels aforesaid, to the said *A. B.*; and what, &c. and a return thereof, &c. And thereupon afterwards, to wit, on the said — day of — in the — year aforesaid, the said *N. O.* returned and certified to the same court, on the precept aforesaid to him directed, that he, according to the custom of the city aforesaid, had made replevin and appraisement of the goods and chattels aforesaid, to the sum of —*l.* by *R. S.* citizen of the city aforesaid, according to the custom of the city aforesaid; and that the said goods and chattels, so replevied and appraised as aforesaid, he had delivered to the said *A. B.* as to him above was commanded; as by the record and proceedings thereof, in the same court remaining, more fully and manifestly appears.

(§ 28.)
Certiorari, out of
Chancery, to
remove a re-

George the Fourth, &c. (352.) To the sheriffs of the county of our city of *Chester*, greeting: We being willing, for certain causes, to be certified of the record and process of a certain plaint, which is before you, in the

court of the said city, without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; command you, &c. (*as in* § 27. *a.*)

The answer of *I. K.* and *L. M.* sheriffs of the city of *Chester*.

The execution of this writ appears in a certain schedule hereunto annexed.

By the said sheriffs.

Pleas of the court of our lord the king of *Pentice* of the city of *Chester*, held at the same city, in the Common Hall of Pleas there, according to the use and custom of the same city, hitherto obtained approved and used, from time whereof the memory of man is not to the contrary, before *I. K.* and *L. M.* sheriffs of the said city of *Chester*, upon — the — day of —, in the — year of the reign of our sovereign lord *George* the Fourth, king of the united kingdom of *Great Britain* and *Ireland*, &c.

A. B. complains against *C. D.* in a plea of taking and unjustly detaining the goods and chattels of the said *A. B.*

— 18—. *G. H.* appears, and prays a declaration: Day given to declare.

I. K.

L. M.

George the Fourth, &c. (352.) To our justices appointed to hold pleas before us, greeting: We send to you, inclosed in these presents, the record and process of a certain plaint, which was in our court of the mayor and sheriffs of *London*, before the said mayor and sheriffs, (*or, in the Pentice court of the city of Chester*, “in our court of the county of the city of *Chester*,”) without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it is said, certified to us by the mayor and sheriffs aforesaid, (*or, “by the sheriffs of the county of the city aforesaid,”*) into our Chancery, by virtue of our writ of *certiorari*, and remaining on the files of our said Chancery; commanding you, that inspecting the record and process aforesaid, you cause further to be done therein, at the prosecution of the said *A. B.* as of right, and according to the law and custom of *England*, shall be meet to be done. Witness ourself, &c. (570.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas we have lately sent to our justices appointed to hold pleas before us, the record and process of a certain plaint, which was in our court, &c. (*as in last*), without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it was

plevin cause from the *Pentice* court of the city of *Chester*.*

Prac. 397.

(§ 29.)

Return thereto.

Prac. 396.

(§ 30.)

Mittimus, to the King's Bench.

Prac. 398.

(§ 31.)

Writ of *praefigandem*, on *certiorari*, in *K. B.*

Prac. 412.

* In the city of *Chester*, there are two courts having power to issue process, &c.; the one called the *Portmote* court, in which the *mayor* is the presiding officer; as to which *vide ante*, pp. 317, 18. 335. and the other called the *Pentice* court, in which the *sheriffs* preside; and in each of these courts, there are four officers appointed by the mayor, aldermen, and common council-men of the city, who execute the process, &c. See the Return of Places in *England* and *Wales*, claiming power of issuing process, &c. ordered to be printed by the House of Commons, 11th March 1828, p. 9.

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said, certified to us by the mayor and sheriffs aforesaid, (or, "by the sheriffs of the county of the city aforesaid,") into our Chancery, by virtue of our writ of *certiorari*, and remaining on the files of our said Chancery: Whereupon the said *A. B.* afterwards, to wit, on the — day of —, in the — year of our reign, comes into our court before us at *Westminster*, by *E. F.* his attorney, and prays that a day may be prefixed to the said *C. D.* to appear in our said court before us, to answer to the said *A. B.* in the said plaint, in our said court before us, according to the form and effect of the aforesaid writ: Therefore, at the request of the said *A. B.* we command you, that you prefix to the said *C. D.* —, wheresoever we shall then be in *England*, to appear in our said court before us, to answer to the said *A. B.* in the plaint aforesaid, in our said court before us, according to the exigency of the aforesaid writ; and have there this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 32.)
Procedendo, on
certiorari out of
Chancery.

Prac. 410, 11.

George the Fourth, &c. (352.) To the mayor and sheriffs of *London*, (or, "sheriffs of the county of our city of *Chester*,") greeting: Although we have lately, by our writ, given command, and were willing that you should, under your seals, distinctly and openly certify to us in our Chancery, by a certain day in our said writ contained, wheresoever it should then be, the record and process of a certain plaint, which was before you, in our court, &c. (*as in* § 30.) without our writ, between *A. B.* and *C. D.* of a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* as it was said, with all things touching the same, by whatsoever names the said parties were called therein, and our said writ; yet, for certain causes us now moving, we command you, that you proceed in the said plaint, with such speed as of right, and according to the custom of the said city, ought to be done, our said writ formerly directed to you to the contrary thereof notwithstanding. Witness ourself, &c. (570.)

(§ 33.)
Certiorari, out of
Exchequer, to
remove *replevin*
cause.

Prac. 397.

George the Fourth, &c. (352.) To the mayor, &c. (*as in last*,) greeting: We being willing, for certain reasons, that the barons of our Exchequer at *Westminster* should be certified by you, of and concerning all and singular plaints, actions and suits, before you lately levied, recovered or prosecuted against *C. D.* for taking and unjustly detaining the goods and chattels of *A. B.* as it is said; command you, and every of you, that all and singular the plaints, actions and suits aforesaid, together with all things belonging thereto, in as ample manner and form as the same remain before you, or either of you, in our court of the said city, you have before the barons of our Exchequer, at *Westminster* aforesaid, on —, together with this writ, so that our said barons may be enabled to do thereupon, what of right ought to be done, according to the laws and customs of this realm; and that in the mean time you proceed not, nor do any thing between the parties aforesaid, to our prejudice or theirs. Witness, &c. (353.)

G. H. solicitor.

By the Barons.

Rose.

— (to wit.) *Re. fa. lo.* between *A. B.* and *C. D.* for taking and unjustly detaining the cattle, goods and chattels of the said *A. B.* Returnable before the lord the king, on —, wheresoever, &c. (*or, in C. P.* “before his majesty’s justices at *Westminster*, on —”). On the part of the plaintiff (*or*, “defendant.”) — attorney.
— 18—.

(§ 34.)
Præcipe for recordari facias loquelam.
Prac. 414.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that in your full county, you cause the plaint to be recorded, which is in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and that you have the said record before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful knights of the same county, of those who were present at the said recording; and that you prefix the same day to the parties, that they be then there, to proceed in that plaint, as shall be just; and that you have there the names of the said four knights, and this writ. Witness ourself, &c. (570.)

(§ 35.)
Writ of *recordari facias loquelam*, by the plaintiff.
Prac. 414, 15.

Let this writ be executed, if the aforesaid *A. B.* require it, otherwise not.

If the *recordari* be sued out by the defendant, there must be a cause assigned at the end of the writ, as thus: “Because the said *C. D.* in pleading asserts, that he took the said cattle goods and chattels in his separate soil, as doing him damage there, in which soil the said *A. B.* claims to have common of pasture, as he says; which said plaint, inasmuch as it concerns the freehold as aforesaid, ought not, according to the law and custom of *England*, to be impleaded in the same county, without our writ; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not.”

(§ 36.)
The like, by defendant.
Prac. 414, 15.

To — and —, my bailiffs.

— (to wit.) Summon *A. B.* and *C. D.*, that they severally be before our lord the king on —, wheresoever our said lord the king shall then be in *England*, (*or, in C. P.* “before the justices of our lord the king at *Westminster*, on —,”) to proceed in a certain plaint between the said *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said, as shall be just. Dated this — day of — 18—. —, Sheriff.

(§ 37.)
Summons, on *re. fa. lo.*

By virtue of this writ to me directed, in my full county, holden at — in and for the county of —, on — the — day of —, in the — year of the reign, &c. (43.) I caused to be recorded the plaint, which is in the same county, without the writ of our said lord the king, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; which said plaint appears in a certain schedule to this writ annexed: and I have the said record before our said lord the king, (*or, in C. P.* “before his majesty’s justices”) at *Westminster*, at the day within contained, under my seal, and the seals of *E. F.* (&c.) four lawful knights of the same county, who

(§ 38.)
Return to *re. fa. lo.*
Prac. 416. (a).

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were present at the said recording ; and I have prefixed the same day, to the parties within named, that they may be then there, ready to proceed in the said plaint, as shall be just, and as I am within commanded.

The answer of —, sheriff.

(§ 39.)
Schedule.

— (to wit.) At the — county court of *W. P. Esquire*, sheriff of the county aforesaid, held at — in and for the said county, on — the — day of —, in the — year of the reign of our sovereign lord *George the Fourth*, by the grace of God, &c. (574.) and in the year of our Lord 18—, before *L. M.* (&c.) freeholders of the said county, (amongst other things,) it is entered as follows :

— (to wit.) *A. B.* yeoman complains of *C. D.* of a plea of taking and unjustly detaining his cattle goods and chattels, to wit, &c. (*setting out the cattle and goods*), and also found pledges, as well to prosecute his suit with effect, as to make a return of the said cattle, goods and chattels, if a return thereof shall be adjudged by law, to wit, *G. H.* of —, and *I. K.* of —.

By the same sheriff.

(§ 40.)
Entry of *re. fa. lo.* on record, in
C. P.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, to wit : *George the Fourth*, &c. (*here copy the re. fa. lo.*) At which day, comes here the said *A. B.* in his proper person, and the said *C. D.* appears by — his attorney ; and the sheriff, to wit, —, sheriff of — aforesaid, now here returns, that he has caused the said plaint, which was in his court, to be recorded between the parties aforesaid ; which said plaint appears in a certain schedule thereto annexed ; and that he has the said record ready, at the day and place in the writ mentioned ; and that he has prefixed that day to the parties aforesaid, that they be then there, to proceed in the said plaint, as shall be just. (*Copy the schedule.*)

(§ 41.)
Pone, upon a
recordari.
Prac. 417.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Put by gages and safe pledges, *C. D.* late of —, that he be before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “ before our justices at *Westminster*, on —,”) to answer to *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, as it is said ; and to shew wherefore he was not in our court before us, (*or, in C. P.* “ before our said justices,”) on — last past, as that day was prefixed to him ; and have there the names of the pledges, and this writ. Witness *Charles Lord Tenynden*, (*or, in C. P.* “ *Sir William Draper Best knight*,”) at *Westminster*, the — day of —, in the — year of our reign.

(§ 42.)
Summons
thereon.

Prac. 417.

To — and —, my bailiffs.

— (to wit.) Summon *C. D.* that he be before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, (*or, in C. P.* “ before the justices of our lord the king at *Westminster*, on —,”) to answer to *A. B.*, &c. (*as in last*), as that day was prefixed to him. Dated this — day of — 18—. —, Sheriff.

(§ 43.)
Distringas
thereon.

Prac. 417.

George the Fourth, &c. (352.) To the sheriff of —, greeting : We command you, that you distrain *C. D.* late of —, by all his lands

and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that you have his body before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) to answer to *A. B.* of a plea wherefore, &c. (as in the *pone*, to the words, “as it is said,”) and to hear judgment thereupon of his many defaults; and have there this writ. Witness, &c. (as in last.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, as *before* (or, “as oftentimes”) we have commanded you, that you distrain *C. D.* &c. (as in last.)

(§ 44.)
Alias, or phurics
distringas.

Prac. 417.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) to answer *A. B.* of a plea wherefore, &c. (as in the former writs, to the words, “as it is said;”) and have there this writ. Witness, &c. (582.)

(§ 45.)
Capias.

Prac. 417.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Although we lately commanded you, that in your full county, you should cause the plaint to be recorded, which was in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it was said; and that you should have the said record before us, on —, wheresoever we should then be in *England*, (or in *C. P.* “before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful knights of the same county, of those who should be present at the said recording; and that you should prefix the same day to the parties, that they might be then there, to proceed in that plaint, as should be just; and that you should have there the names of the said four knights, and that writ: Yet we being now moved with certain causes in our court before us, (or, in *C. P.* “before our said justices,”) command you, that in the same plaint against the said *C. D.* at the suit of the said *A. B.* before you levied or affirmed, and now depending undetermined, you proceed at your next county court, to be holden in and for the same county, with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper; our said writ to you in that behalf heretofore directed, to the contrary in any wise notwithstanding. Witness, &c. (582.)

(§ 46.)
Procedendo,
when the re-
cordari is not
returned.
Prac. 416, 418.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that taking with you four discreet and lawful knights of your county, you go in your proper person to the court of —, and in that full court you cause to be recorded the plaint, which is in the same court, without our writ, between *A. B.* and *C. D.* &c. (as in last); and have that record before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful men of the same court, who

(§ 47.)
Accedas ad cu-
riam.

Prac. 415.

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were present at that recording ; and prefix the same day to the parties aforesaid, that they be then there, to proceed in that plaint, as shall be just ; and have there the names of the said four lawful men, and this writ. Witness ourself, &c. (570.) Because the said *C. D.* is bailiff of the aforesaid —, of his court aforesaid, and holds pleas in the same court, and ought not to be a judge in his own cause ; let this writ be executed, if the cause be true, and the said *A. B.* require it, otherwise not.

(§ 48.)
Return thereto.
Prac. 415.

Manor of —, } At the court baron of —, lord of the manor of —,
in the county } in the said county, holden at —, in and for the said
of —. } manor, and within the jurisdiction of the same court,
on the — day of — 18—, before *E. F.* steward of the said court.

In *replevin*.

A. B. complains of *C. D.* of a plea of taking and unjustly detaining his goods and chattels, to the damage of the said *A. B.* of —. Defendant appears, and demands declaration.

(§ 49.)
Procedendo
thereon.
Prac. 416. 418.

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas by our writ we lately commanded you, that taking with you four discreet and lawful knights of your county, you should go in your proper person to the court of —, and in that full court you should cause to be recorded the plaint, which was in the same court, without our writ, between *A. B.* and *C. D.* &c. (*as in* § 46.) and that you should have that record before us, on —, wheresoever we should then be in *England*, (*or, in C. P.* “ before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful men of the same court, who were present at that recording, and prefix the same day to the parties, that they should be then there, to proceed in that plaint, as should be just, and that you should have there the names of the said four lawful men, and that writ ; because the said *C. D.* was bailiff of the aforesaid —, of his court aforesaid, and held pleas in the same court, and ought not to be a judge in his own cause ; and that the said writ should be executed, if the cause were true, and the said *A. B.* required it, otherwise not. And you on that day returned to us, (*or, in C. P.* “ to our said justices here,”) that by virtue of the said writ to you directed, on —, taking with you four discreet and lawful knights of your county, you went in your proper person to the court of —, then held there, and in that full court you caused the plaint to be recorded, whereof mention is made in the aforesaid writ ; the record of which said plaint annexed to the said writ, you had ready before us, (*or, in C. P.* “ before our said justices,”) at the aforesaid day, under your seal, and the seals of four lawful men of the same court, who were present at that recording ; and that you had prefixed the same day to the parties aforesaid, as by the said writ you were commanded : Which said record follows in these words, to wit : *A. B.* complains against *C. D.* of a plea, &c. (*here copy the record :*) And for divers causes us thereunto moving, it was considered in our same court, that the said — (*the lord,*) ought further to proceed in the plaint aforesaid, between the parties aforesaid. Therefore we command you, firmly enjoining you, that you give in charge to the said —, that he pro-

ceed further in the plaint aforesaid, according to the law and the custom of his manor aforesaid, our aforesaid writ to you thereupon directed in any wise notwithstanding; and that he render to the parties aforesaid full and speedy justice in the premises, as of right, and according to law and the custom of the manor aforesaid, hath been used to be done. Witness, &c. (582.)

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B. against D. (§ 50.)

Rule to appear, on *recordari facias loquelam*.

E. F. plaintiff's attorney, (or, agent.)

— 18—.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

Between

Filacer's rule, to appear on *re. fa. lo.* brought by plaintiff.
Prac. 416, 17. 483.

(§ 51.)
Notice of filing *recordari*, &c. and demand of declaration, in K. B.
Prac. 417.

The defendant having sued out a writ of *recordari facias loquelam*, directed to the sheriff of —, for removing the above cause out of the county court of —, into the court of King's Bench, returnable on — last past, I do hereby give you notice, that the said defendant has filed the said writ, and the return thereof, with the filacer of the court of King's Bench, and hath entered his appearance in the said cause, with the said filacer; and that you are required to declare in the said cause, otherwise the defendant will sign a *non pros*. Dated the — day of — 18—.

Your's, &c.

G. H. defendant's attorney, (or, agent.)

— 18—.

To Mr. E. F. plaintiff's attorney,
(or, agent.)

In the Common Pleas.

A. B. plaintiff,
and
C. D. defendant.

Between

(§ 52.)
Demand of declaration, in C. P.
Prac. 417.

Take notice, that the defendant, on — last past, entered a rule to declare in this cause, with the secondary; and he hereby demands a declaration in this cause, by

Your's, &c.

G. H. defendant's attorney, (or, agent.)

— 18—.

To Mr. E. F. plaintiff's attorney,
(or, agent.)

— (to wit.) Appearance for C. D. at the suit of A. B. to a *recordari facias loquelam*, returnable on —.

G. H. attorney.

— 18—.

(§ 53.)
Præcipe for appearance, for defendant.

In the King's Bench.

A. B. } — next after — is given to the plaintiff in *replevin*, to de-
v. } clare; otherwise let there be a return of the goods.
C. D. }

Entered.

(§ 54.)
Master's rule to declare, in K. B.
Prac. 417, 483.

(§ 55.)

Judgment for the defendant, for a return, and costs,* on a *non pros* for want of declaration, in K. B.

Prac. 418. 931.

As yet of — term, &c. (166.)

— (to wit.) *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And thereupon the said *C. D.* in his proper person, offers himself, on the fourth day, against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default; nor does he further prosecute his writ against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the said cattle goods and chattels, &c.: It is also considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

Judgment signed, &c. (186.)

Execution.

(§ 56.)

The like, in C. P.

Prac. 418.

— (to wit.) *A. B.* at whose suit *C. D.* late of —, was summoned to answer, of a plea wherefore he took the cattle, goods and chattels of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c. doth not further prosecute his writ in this behalf, against the said *C. D.* Therefore it is considered, &c. (*as in last.*)

(*Entry of warrant of attorney for the defendant, as above.*)

(§ 57.)

The like, for the arrears of rent, &c. on stat. 17 Car. II. c. 7. § 2.

Prac. 418. 931.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And thereupon the said *C. D.* in his proper person offers himself, on the fourth day, against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default; nor does he further prosecute his writ against the said *C. D.* Therefore it is considered that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the said cattle, goods and chattels, &c.: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that he the said *C. D.* took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in the said court of our said lord the king before the king himself, (*or, in C. P.* “before his justices here,”) to answer to the said *A. B.* as aforesaid, at the parish of —, in the said

* Where a defendant removes proceedings by *re. fa. lo.* from a county court, into one of the superior courts, and signs judgment of *non pros* in default of the plaintiff's appearing, he is entitled to costs, by stat. 4 Jac. I. c. 3. 1 Durnf. & East, 371.

county of —, in a certain place there called —; and that he took the same as bailiff of *E. F.* for that the said *A. B.* for the space of —, next before and ending on the — day of — in the year of our Lord 18—, and from thence until the time of taking the said cattle goods and chattels, held and enjoyed the said place in which, &c. with the appurtenances, amongst other things, as tenant thereof to the said *E. F.* at and under the yearly rent of —*l.* payable on, &c. (*days of payment:*) And because the sum of —*l.* of the rent aforesaid, for the said space of —, ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the time of taking the said cattle goods and chattels, was in arrear and unpaid from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said rent, so due and in arrear from the said *A. B.* to the said *E. F.* as aforesaid: And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed to the sheriff of —, to inquire of the sum in arrear of the rent aforesaid, and of the value of the cattle goods and chattels aforesaid; and it is granted to him, &c. Therefore it is commanded to the said sheriff of —, that according to the form of the statute aforesaid, he diligently inquire, by the oath of twelve good and lawful men of his bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels, so as aforesaid taken and distrained, were worth, according to the true value of the same; and that the inquisition which the said sheriff shall thereupon take, he make appear to our said lord the king, on —; wheresoever our said lord the king shall then be in *England*, (*or, in C. P. "to the justices here, on —,"*) under his seal, and the seals of those by whose oath he shall take the said inquisition; and that he have there the names of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed; the same day is given to the said *C. D.*, &c. At which day, before our said lord the king at *Westminster*, comes (*or, in C. P. "At which day comes here,"*) the said *C. D.* by his attorney aforesaid; and the sheriff of —, to wit, —, now here returns a certain inquisition indented, taken before him, at — in the said county, on — the — day of —, in the — year of the reign of our said lord the king, by the oath of twelve good and lawful men of his county, whereby it appears, that the sum of —*l.* of the said yearly rent was in arrear and unpaid, and due and owing from the said *A. B.* to the said *C. D.* at the time in the said avowry (*or, "cognizance"*) mentioned, and of the distress taken; and that the cattle goods and chattels distrained were worth, according to the true value thereof, the sum of —*l.* Therefore it is considered, that the said *C. D.* do recover against the said *A. B.* the said sum of —*l.* being the arrearages of the said rent, by the said inquisition in form aforesaid found, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request,

Judgment
signed, &c.
(186.)

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for his costs and charges, by him laid out about his defence in this behalf, according to the form of the statute in such case made and provided; which said arrearages costs and charges in the whole amount to —*l.*; and that the said *C. D.* have execution thereof, &c.

Execution.

(§ 58.)

The like, where the goods are found to be of less value than the rent.

Prac. 418. 931.

Therefore it is considered, that the said *C. D.* do recover against the said *A. B.* the said —*l.* parcel of the rent aforesaid, by the said inquisition in form aforesaid found, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request, for his costs and charges, &c. (*as in the last*;) which said value, costs and charges, in the whole amount to —*l.*; and that the said *C. D.* have execution thereof, &c.

Execution.

(§ 59.)

Writ of inquiry, to ascertain the arrears of rent, &c. on a *non pros* for want of a declaration, on stat. 17 Car. II. c. 7. § 2.

Prac. 418.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court before us, (*or, in C. P. "before our justices at Westminster,"*) to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *C. D.* offered himself in our said court before us, (*or, in C. P. "before our said justices,"*) on the fourth day, against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, came not, but made default, nor did he further prosecute his writ against the said *C. D.* Therefore it was considered by the same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c.; and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. And thereupon it hath been suggested in our said court before us, (*or, in C. P. "before our said justices,"*) by the said *C. D.* that he took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in our said court before us, (*omitting "before us," in C. P.*) to answer the said *A. B.* as aforesaid, at — in the said county, in a certain place there called —, and that he took the same as bailiff of *E. F.* for that the said *A. B.* for the space of —, next before and ending on the — day of — in the year of our Lord 18—, and from thence until and at the time of taking the said cattle goods and chattels, held and enjoyed the said place in which, &c. with the appurtenances, amongst other things, as tenant thereof to the said *E. F.* at and under the yearly rent of —*l.* And because —*l.* of the rent aforesaid, for the said space of —, ending as aforesaid, on the said, (&c.) and from thence until and at the time of taking the said cattle goods and chattels, were due and in arrear from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said rent, so due and in arrear from the said *A. B.* to the said *E. F.* as aforesaid: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the arrears of the rent aforesaid, and of the value of the said cattle goods and chattels, and it was granted to him, &c.; as by the record and proceedings thereof, still remaining in our said court before us (*or, in C. P. "before our said*

justices") at *Westminster* aforesaid, fully appears: Therefore we command you, that according to the form of the statute aforesaid, you diligently inquire, by the oath of twelve good and lawful men of your bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels, so as aforesaid taken and distrained, were worth, according to the true value of the same; and the inquisition which you shall thereupon take, make appear to us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* "to our said justices at *Westminster*, on —,") under your seal, and the seals of those by whose oath you shall take the said inquisition; and have there the names of those by whose oath you shall take the said inquisition, and this writ. Witness, &c. (582.)

In the King's Bench, (or, Common Pleas.)

— term, &c. (516.)

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c.; and thereupon the said *A. B.* by *E. F.* his attorney complains, that the said *C. D.* on the — day of —, in the year of our Lord 18—, at the parish of —, in the county of —, in a certain dwelling house there, (or, "in a certain place there called —,") took the cattle goods and chattels, to wit, &c. (*setting out the cattle and goods*,) of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c. Wherefore the said *A. B.* says that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

(§ 60.)
Declaration in
replevin, in
K. B. or C. P.
Prac. 433.

As yet of — term, (*the term of which interlocutory judgment is signed*,) in the — year of the reign of king *George* the Fourth. Witness *Charles Lord Tenterden*.

(§ 61.)
Judgment for
the plaintiff, by
nil dicit, in K. B.
Prac. 931.

(to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore, &c. (*here copy the declaration verbatim, and proceed on a new line as follows:*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because

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it is unknown, &c. (as before, p. 200. making the writ of inquiry returnable on a general return day, wheresoever, &c.)

(§ 62.)
The like, in
C. P.

Prac. 931.

(§ 63.)
Writ of in-
quiry of da-
mages, for the
plaintiff.

Prac. 573.

— (to wit.) C. D. was summoned to answer A. B. of a plea wherefore, &c. (to the end of the declaration; and then, on a new line, as in the last precedent, awarding the writ of inquiry as before, p. 201.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas C. D. was summoned to be in our court before us, (or, in C. P. “before our justices at Westminster,”) to answer A. B. of a plea wherefore the said C. D. on the — day of —, in the year of our Lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of the said A. B. to wit, &c. (here set out the cattle and goods, as in the declaration,) and unjustly detained them against gages and pledges, until, &c. wherefore the said A. B. said that he was injured, and had sustained damage to the value of —l. and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at Westminster aforesaid, (or, in C. P. “it was in such manner proceeded in our said court,”) that the said A. B. ought to recover against the said C. D. his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because it is unknown, &c. (as before, p. 205. concluding the writ as by original in K. B. or C. P.)

(§ 64.)
Plea of non
cepil.
Prac. 645.

— term, &c. (516.)

C. D. } And the said C. D. by G. H. his attorney, comes and de-
ats. } fends the wrong and injury, when, &c. and says that he did
A. B. } not take the said cattle goods and chattels in the said declara-
tion mentioned, in manner and form as the said A. B. hath above thereof
complained against him: And of this he the said C. D. puts himself upon
the country, &c.

(§ 65.)
Cepit in alio loco,
with an avowry
or cognizance
for a return.

C. D. } And the said C. D. by G. H. his attorney, comes and de-
ats. } fends the wrong and injury, when, &c. and prays judgment of
A. B. } the declaration aforesaid, because he says that he took the cattle
goods and chattels aforesaid in the parish of —, in a certain place
there called —, in the county aforesaid; without this, that he took
the aforesaid cattle goods and chattels at —, in the aforesaid place
called —, as the said A. B. by his declaration aforesaid hath above sup-
posed; and this he the said C. D. is ready to verify, wherefore he prays
judgment of the declaration aforesaid, &c. And for having a return of
the said cattle goods and chattels, the said C. D. well avows (or, “as
bailiff of G. N. Esquire, well acknowledges”) the taking, &c. (as in the
next form.)

(§ 66.)
Avowry, or
cognizance, for
damage feasant,
on a freehold.

Prac. 645.

C. D. } And the said C. D. by G. H. his attorney, comes and de-
ats. } fends the wrong and injury, when, &c. and well avows (or,
A. B. } “as bailiff of G. N. well acknowledges”) the taking of the
said cattle, in the said place in which, &c. and justly, &c. Because he

saith, that the said place in which, &c. now is, and at the said time when, &c. was, the close soil and freehold of him the said *C. D.* (*or*, “of the said *G. N.*”): And because the said cattle, at the said time when, &c. were in the said place in which, &c. eating up the grass there then growing, and doing damage there to the said *C. D.* (*or*, “to the said *G. H.*”) he the said *C. D.* well avows (*or*, “as bailiff of the said *G. N.* well acknowledges”) the taking of the said cattle, in the said place in which, &c. and justly, &c. as for and in the name of a distress for the said damage, so there done and doing, &c.

William Reader.

A. B. } And the said *A. B.* says, that the said *C. D.* by reason of any
v. } thing in his said avowry (*or*, “cognizance”) above alleged, ought
C. D. } not to avow (*or*, “as bailiff of the said *G. N.* to acknowledge”) the taking of the said cattle, in the said place in which, &c. and justly, &c. Because he says, that the said place in which, &c. now is, and at the said time when, &c. was, the close soil and freehold of him the said *A. B.* and not the close soil and freehold of the said *C. D.* (*or*, “*G. N.*”) in manner and form as the said *C. D.* hath above in his said avowry (*or*, “cognizance”) in that behalf alleged: And this he the said *A. B.* prays may be inquired of by the country, &c.

(§ 67.)
Plea in bar
thereto.
Prac. 645.

C. D. } • And the said *C. D.* by — his attorney, comes and de-
ats. } fends the wrong and injury, when, &c. and well avows (*or*,
A. B. } “as bailiff of *G. N.* Esquire, well acknowledges”) the tak-
ing of the said goods and chattels in the said declaration mentioned, in the said dwelling house in which, &c. (*or*, *if not mentioned in the declaration*, “in a certain dwelling house, situate and being at the parish aforesaid, in the county aforesaid,”) and justly, &c. Because he says, that the said *A. B.* for a long space of time, to wit, for the space of —, next before and ending on the — day of — in the year of our Lord 18—, and from thence until and at the said time when, &c. held and enjoyed the said dwelling house in which, &c. with the appurtenances, as tenant thereof to the said *C. D.* (*or*, “*G. N.*”) by virtue of a certain demise thereof to him the said *A. B.* theretofore made, at and under a certain yearly rent, to wit, the yearly rent of —*l.* payable quarterly, on the — day of —, &c. (*days of payment*,) in every year, by even and equal portions: And because —*l.* of the rent aforesaid, for the said space of —, ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (*or*, “*G. N.*”) he the said *C. D.* well avows (*or*, “as bailiff of the said *G. N.* well acknowledges”) the taking of the said goods and chattels, in the said dwelling house in which, &c. and justly, &c. as for and in the name of a distress for the said rent, so due and in arrear as aforesaid: and which said rent still remains due and in arrear to the said *C. D.* (*or*, “*G. N.*”) And this he the said *C. D.* is ready to verify, wherefore he prays judgment, and a return of the said goods and chattels, together with his damages, &c. according to the form of the statute in such case made and provided, to be adjudged to him, &c.

(§ 68.)
Avowry or
cognizance for
rent, on stat.
11 Geo. II. c.
19. § 22.
Prac. 645.

Randle Jackson.

(§ 68. a.)
The like, where
part of the rent
has been satis-
fied.

(§ 69.)
Pleas in bar
thereto, viz.
1st, *non tenuit*;
and 2dly, no
rent in arrear.

Prac. 645.

If part of the rent has been satisfied, say: "And because — *l.* parcel of the sum of — *l.* of the rent aforesaid, for the said space of —, ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") the residue of the said sum of — *l.* of the rent aforesaid, having been before then paid and satisfied, he the said *C. D.* well avows, &c. (*as in the last*), for the said sum of — *l.* parcel, &c. so due and in arrear as aforesaid; and which said sum of — *l.* parcel, &c. still remains due, &c." (*as before*.)

A. B. } And the said *A. B.* saith, that the said *C. D.* by reason of any
v. } thing in his said avowry (or, "cognizance") above alleged, ought
C. D. } not to avow (or, "as bailiff of the said *G. N.* to acknowledge")
the taking of the said goods and chattels in the said declaration mentioned, in the said dwelling house in which, &c. and justly, &c. Because he says, that he the said *A. B.* did not hold or enjoy the said dwelling house in which, &c. with the appurtenances, as tenant thereof to the said *C. D.* (or, "the said *G. N.*") under the supposed demise thereof in the said avowry (or, "cognizance") mentioned, in manner and form as the said *C. D.* hath above in his said avowry (or, "cognizance") in that behalf alleged: And this he the said *A. B.* prays may be inquired of by the country, &c. And for a further plea in this behalf, the said *A. B.* by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, saith that the said *C. D.* by reason of any thing in his said avowry (or, "cognizance") above alleged, ought not to avow (or, "as bailiff of the said *G. N.* to acknowledge") the taking of the said goods and chattels, in the said dwelling house in which, &c. and justly, &c. Because he says, that no part of the said supposed rent in the said avowry (or, "cognizance") mentioned, was or is in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") in manner and form as the said *C. D.* hath above in his said avowry (or, "cognizance") in that behalf alleged: And this he the said *A. B.* also prays may be inquired of by the country, &c.

(§ 70.)
Judgment for
the defendant,
for a return,
with damages
and costs*, on
a *non pros* for
want of plea in
bar; with award
of *retorno ha-
bendo*, and writ
of inquiry of
damages.

Prac. 931.

(*Entry of warrants of attorney for both parties, in K. B. as before, p. 589.*)

— (to wit.) *C. D.* was summoned to answer unto *A. B.* of a plea, &c. (*here copy the declaration, and avowry or cognizance, and proceed as follows:*)

* The defendant in *replevin*, making avowry, cognizance or justification, for any rent, service or custom, or for *damage feasant*, is entitled to damages and costs, by the statutes 7 Hen. VIII. c. 4. § 3. and 21 Hen. VIII. c. 19. § 3. if the avowry, cognizance or justification, be found for him, or the plaintiff in *replevin* be nonsuit, or otherwise barred. In other cases, the defendant in *replevin*, is entitled to costs only, by stat. 4 Jac. I. c. 3. But by stat. 11 Geo. II. c. 19. § 22. if the plaintiff in *replevin* shall become nonsuit, discontinue his action, or have judgment against him, after avowry or cognizance for rent, quit rent, relief, heriot, or other service, the defendant in *replevin* shall recover double costs of suit. *Prac.* 887, 8.

And upon this the said *C. D.* prays that the said *A. B.* may plead in bar of the said avowry (*or, "cognizance"*): and thereupon a day is given to the said *A. B.* before the lord the king, until —, wheresoever the said lord the king shall then be in *England*, (*or, in C. P. "a day is given here to the said A. B. until —,"*) that is to say, for him the said *A. B.* to plead in bar of the said avowry, (*or, "cognizance,"*) &c.; the same day is given to the said *C. D.* &c. At which day, before the said lord the king at *Westminster*, comes (*or, in C. P. "At which day comes here,"*) the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default, nor hath he pleaded in bar of the said avowry, (*or, "cognizance,"*) nor does he further prosecute his writ against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the cattle goods and chattels aforesaid, &c. And it is further considered, that the said *C. D.* ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute, &c. Therefore it is commanded to the sheriff, that without delay he cause the cattle goods and chattels aforesaid to be returned to the said *C. D.*; and that he do not deliver them, on the complaint of the said *A. B.* without the writ of the said lord the king, which shall make express mention of the judgment aforesaid: And in what manner he shall execute the writ of the said lord the king, he make appear to the said lord the king, on —, wheresoever, &c. (*or, in C. P. "to the justices here, on —."*) It is also commanded to the sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute in such case made and provided, as for his costs and charges by him laid out about his defence in this behalf; and that the inquisition which the said sheriff shall thereupon take, he make appear to the said lord the king, at the time aforesaid, wheresoever, &c. (*or, in C. P. "to the justices here, at the time aforesaid,"*) under his seal, and the seals of those by whose oath he shall take that inquisition; and that he have there the names of those by whose oath he shall take that inquisition, together with the writ of the said lord the king, to him thereupon directed; the same day is given to the said *C. D.* &c.

Judgment
signed, &c.
(186.)

(*After the judgment for a return, proceed as follows:*) And hereupon the said *C. D.* freely here in court remits to the said *A. B.* his damages aforesaid; therefore let the said *A. B.* be acquitted thereof: And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges, &c. (*as before*, p. 586.)

(§ 71.)
The like, with a
remittitur
damna.

Prac. 931.

(*Entry of warrants of attorney for both parties, in K. B. as before*, p. 589.)

(§ 72.)
The like, for
the arrears of
rent, &c. on

— (to wit.) *C. D.* was summoned to answer unto *A. B.* of a plea,

stat. 17 Car. II.
c. 7. § 2. on a
non pros, for
want of a plea
in bar.

Prac. 931.

(§ 73.)
Writ of inquiry
thereon, in
K. B. or C. P.

Prac. 418,
575, 6.

(§ 74.)
Judgment for
the defendant,
for a return,
with damages
and costs, on
demurrer to a
plea in bar.

Prac. 931.

Judgment
signed, &c.
(186.)

&c. (*here copy the declaration, and avowry or cognizance, and proceed as follows:*)

And upon this the said *C. D.* prays that the said *A. B.* may plead in bar of the said avowry, (or, "cognizance,") &c. (*as before, p. 593. to the end of the judgment for a return, and then as follows:*) And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ, &c. (*as before, p. 587. to the end.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court before us, (or, in *C. P.* "before our justices at *Westminster*,") to answer *A. B.* of a plea wherefore the said *C. D.* on —, at — in your county, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, (*set out the cattle and goods mentioned in the declaration,*) and unjustly detained them against gages and pledges, until, &c. And the said *C. D.* appearing in our said court before us, (or, in *C. P.* "before our said justices,") at *Westminster* aforesaid, by — his attorney, well avowed (or, "as bailiff of *G. N.* well acknowledged") the taking of the said cattle goods and chattels, &c. (*here recite the whole of the avowry or cognizance, and proceed as follows:*) And such proceedings were thereupon had in our said court before us, (or, in *C. P.* "before our said justices,") at *Westminster* aforesaid, that it was afterwards considered in the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the said cattle goods and chattels, &c. And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, &c. (*as before, pp. 588, 9. to the end.*)

(*Entry of warrants of attorney for both parties, in K. B. as before, p. 589.; and after entering the proceedings, to the end of the demurrer book, go on as follows:*) At which day, before our said lord the king at *Westminster*, come (or, in *C. P.* "At which day come here,") the parties aforesaid, by their attorneys aforesaid; whereupon all and singular the premises being seen, and by the court of our said lord the king now here (or, in *C. P.* "by the justices here") fully understood, and mature deliberation being thereupon had, it appears to the said court (or, "justices") here, that the said plea of the said *A. B.* by him above pleaded in bar of the avowry (or, "cognizance") aforesaid, and the matters therein contained, are not sufficient in law to bar the said *C. D.* from avowing (or, "acknowledging") the taking of the said cattle goods and chattels, in the said place in which, &c. to be just, as the said *C. D.* hath above alleged: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever; and that he ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute,

&c. Therefore it is commanded to the sheriff, that without delay he cause the cattle goods and chattels aforesaid to be returned to the said C. D. to hold to him irreplevisable, in form aforesaid: And in what manner, &c. (*as before*, p. 593.)

(*Entry of warrants of attorney for both parties, in K. B. as before*, p. 589.; and after entering the proceedings, to the end of the demurrer book, proceed as follows:)

At which day, before our said lord the king at Westminster, came (or, in C. P. "At which day came here,") the parties aforesaid, by their attorneys aforesaid; and hereupon all and singular the premises being seen, &c. (*as in the last, to the word "alleged:"*) Therefore it is considered, that the said A. B. take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said C. D. do go thereof without day, &c. And hereupon the said C. D. according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed to the sheriff of the said county of —, to inquire of the value of the cattle goods and chattels aforesaid: Therefore the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value; and that the inquisition which the said sheriff shall thereupon take, he make appear, &c. (*as before*, p. 587. *making the jury find*, "that the said cattle goods and chattels, at the time of taking the same, were worth —l. according to their true value.")

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas C. D. was summoned to be in our court before us, (or, in C. P. "before our justices at Westminster,") to answer A. B. of a plea wherefore the said C. D. on —, at —, in a certain place there called —, took the cattle goods and chattels of the said A. B. to wit, &c. (*setting out the cattle and goods*,) and unjustly detained them against gages and pledges, until, &c. And the said C. D. appearing in our said court before us, (or, in C. P. "before our said justices at Westminster,") by — his attorney, well avowed (or, "as bailiff of E. F. well acknowledged") the taking of the said cattle goods and chattels, &c. (*reciting the avowry or cognizance, plea in bar, demurrer and joinder:*) And such proceedings were thereupon had in our said court before us, (or, in C. P. "before our said justices,") that it was afterwards considered by the same court, that the said plea of the said C. D. by him above pleaded in bar of the avowry (or, "cognizance") aforesaid, and the matters therein contained, were not sufficient in law, &c. (*as in the last but one:*) It was also considered by the same court, that the said A. B. should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said C. D. should go thereof without day, &c.; and that he ought to recover against the said A. B. his damages on occasion of the premises, according to the form of the statute in such case made and provided: But because it is unknown, &c. (*as before*, p. 205. *making the*

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(§ 75.)
The like, for
the arrears of
rent, &c. on
stat. 17 Car. II.
c. 7. § 2.
Prac. 418. 931.

(§ 76.)
Writ of inquiry
of damages, on
judgment for a
return, with da-
mages and costs,
on demurrer to
a plea in bar.
Prac. 1088, 9.

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writ to inquire, "what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute, &c. as for his costs and charges by him laid out about his defence in this behalf;" and concluding the writ as by original in *K. B.* or in *C. P.* for which *vide ante*, p. 205.)

(§ 77.)
The like, to
ascertain the
value of goods,
on stat. 17 *Car.*
II. c. 7. § 2.

Prac. 418.
1038, 9.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned, &c. (*as in the last, to the end of the declaration* :) And the said *C. D.* appearing in our said court before us, (*or, in C. P.* "before our said justices at *Westminster*,") by — his attorney, well avowed (*or, "as bailiff of E. F. well acknowledged"*) the taking of the said cattle goods and chattels, &c. (*reciting the avowry or cognizance, plea in bar, demurrer and joinder* :) And such proceedings were thereupon had in our said court before us, (*or, in C. P.* "before our said justices,") at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said plea of the said *A. B.* by him above pleaded in bar of the avowry (*or, "cognizance"*) aforesaid, and the matters therein contained, were not sufficient in law, &c. (*as before*, p. 594.) It was also considered by the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the said cattle goods and chattels, &c.: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the value of the cattle goods and chattels aforesaid, and it was granted to him, &c.; as by the record and proceedings thereof, still remaining in our said court before us, (*or, in C. P.* "before our said justices,") at *Westminster* aforesaid, fully appears: Therefore we command you, that, according to the form of the statute in such case made and provided, you diligently inquire, by the oath of twelve good and lawful men of your bailiwick, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value; and the inquisition which you shall thereupon take, make appear, &c. (*as before*, p. 589.)

(§ 78.)
Notice of in-
quiry, on same
statute.

Prac. 577.

In the King's Bench,

(*or, Common Pleas.*)

A. B. against *C. D.*

Take notice, that a writ of inquiry will be executed in this cause, on —, (*at the distance of fifteen days at least*), at —, (*as before*, p. 208.) touching the sum in arrear, at the time of the distress taken, and the value of the goods (*or, "cattle"*) distrained, (*or, on demurrer, "of the value of the distress,"*) according to the form of the statute in such case made and provided. Dated, &c. (568.) Your's, &c.

To Mr. G. H. defendant's attorney,

E. F. plaintiff's attorney,

(*or, agent.*)

(*or, agent.*)

(§ 79.)
Inquisition,
and return.

— (to wit.) An inquisition indented, taken at —, &c. (*as before*, p. 209. to "honest and lawful men of the said county," and then as follows :) who upon their oath say, that the sum of —*l.* of the yearly rent in the said writ mentioned, was in arrear and unpaid from the said

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A. B. to the said *C. D.* at the time of taking and distraining the cattle goods and chattels in the said writ also mentioned; and that the said cattle goods and chattels were then worth, according to their true value, the sum of —*l.* (or, on demurrer, “that the cattle goods and chattels in the said writ mentioned were worth, at the time of taking the same, according to their true value, the sum of —*l.*”) In witness whereof, as well I the said sheriff, as the said jurors, have set our seals to this inquisition, the day and year, and at the place above written.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of —, sheriff.

In the King’s Bench, (or, Common Pleas.)

— term, (*the term of which the declaration is entitled,*) in the

— year of the reign of king George the Fourth.

— (to wit.) *C. D.* was summoned to answer *A. B.* &c. (*as in the declaration, to the end.*)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. (*copying the pleadings* :) Therefore it is commanded to the sheriff, that he cause to come before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, (or, in *C. P.* “that he cause to come here, on —,”) twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, &c. (*omitting the dies datus, in C. P.*)

The jury process and record of *nisi prius* in *replevin*, are the same as in other cases, except that the plea or action is described as “a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.*”

Afterwards, &c. (*as before, p. 314. to the words “tried and sworn,” and then as follows* :)—say upon their oath, that the said *C. D.* did take the within-mentioned cattle goods and chattels, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (*as before, p. 322. § 31.*)

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *A. B.* held and enjoyed the within-mentioned messuage or dwelling house and premises with the appurtenances, as tenant thereof to the said *C. D.* by virtue of the within-mentioned demise, as the said *C. D.* hath within in his avowry (or, “cognizance”) in that behalf alleged: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid, upon their oath aforesaid, say, that at the time in that behalf within mentioned, the rent within specified was in arrear and unpaid from the said *A. B.* to the said *C. D.* as the said *C. D.* hath within in his said avowry (or, “cognizance”) in that behalf alleged: And they assess the damages of the said *C. D.* on occasion of the premises, besides his costs and charges by him about his suit in that behalf expended, to —*l.* and for those costs and charges to —*s.* Therefore, &c.

(§ 80.)
Issue, in *K. B.*
or *C. P.*
Prac. 734.

(§ 81.)
Postea, for the
plaintiff, on *non*
cepit.

(§ 82.)
The like, for
the defendant,
on several is-
sues.
Prac. 869.

(§ 88.)
The like, in the
sheriffs' court
of London.

Prac. 869.

— at a husting of Common Pleas, holden in the *Guildhall* of the city of *London*, according to the custom of the said city, on — next after the feast of —, in the — year of the reign of his present majesty king *George* the Fourth, come as well the said plaintiff as the said defendant, by their respective attornies aforesaid; and the jurors of the jury aforesaid, being solemnly called, twelve of them, that is to say, *I. K.* (&c.) appeared; who being elected tried and sworn upon the said jury, according to the custom of the said city, to declare the truth of and concerning the premises, and to try the issues joined between the said parties, in the plea aforesaid, for their verdict, as to the first issue joined between the said parties, upon their oath say, that the said plaintiff held and enjoyed the said dwelling house and premises in which, &c. with the appurtenances, as tenant thereof to the said defendant, by virtue of a demise thereof to him the said plaintiff theretofore made, at and under the yearly rent of —*l.* payable quarterly, on, &c. (*days of payment*,) in every year, in manner and form as the said defendant hath in his said first avowry above alleged: And as to the second issue joined between the said parties, the jurors aforesaid upon their oath say, that at the time in the said last avowry in that behalf mentioned, the sum of —*l.* of the rent by the said last avowry alleged to be in arrear, over and above the said —*l.* part thereof, was in arrear and unpaid to the said defendant, in manner and form as the said defendant hath in his said last avowry above alleged: And as to the third issue joined between the said parties, the jurors aforesaid upon their oath say, that the said plaintiff did not tender or offer to pay to the said defendant, the said —*l.* residue of the rent in the said last avowry mentioned, in manner and form as the said plaintiff hath above in his said second plea to the said last avowry in that behalf alleged: And as to the last issue joined between the said parties, the jurors aforesaid upon their oath say, that the said plaintiff did pay to the said *L. M.* the said —*l.* of the rent in the said last avowry mentioned, in manner and form as the said plaintiff hath above in his said last plea to the said last avowry in that behalf alleged: And the said jurors, according to the form of the statute in such case made and provided, do assess the damages of the said defendant, on occasion of the premises, besides his costs and charges by him about his suit in that behalf expended, to —, and for those costs and charges to —. Therefore, &c.

(§ 84.)
The like, on
stat. 17 Car. II.
c. 7. § 2.

Prac. 869.

(*As in the last two, to the end of the finding upon the issues, and then as follows:*) And the jurors aforesaid, at the prayer of the said *C. D.* according to the form of the statute in such case made and provided, having proceeded to inquire concerning the sum of the arrears of the rent within specified, and the value of the cattle goods and chattels distrained, upon their oath aforesaid say, that the sum of such arrears was —*l.* and that the cattle goods and chattels distrained were of the true value of —*l.* Therefore, &c.

(§ 85.)
Judgment for
the defendant,

(*To the end of the postea, as in other cases, and then as follows:*) Therefore it is considered, that the said *A. B.* take nothing by his writ

aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever: And it is further considered, that the said *C. D.* do recover against the said *A. B.* his damages aforesaid, by the jury aforesaid in form aforesaid assessed, and also — *l.* for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; which said damages costs and charges in the whole amount to — *l.*; and that the said *C. D.* have execution thereof, &c.

for a return,
with damages
and costs, on a
verdict.
Prac. 869. 931.

Execution.

(*To the end of the postea, and then as follows:*) But because the court now here is not yet advised what judgment to give of and concerning the premises, a day is therefore given to the said parties, to be and appear at the next husting of Common Pleas, to be holden, &c. to hear the judgment of the court thereupon: And afterwards, to wit, at a husting of Common Pleas, holden on — next after —, in the — year aforesaid, the said parties, by their attornies aforesaid, appear; and the said defendant prays the judgment of the court, of and upon the said verdict: And thereupon, at the same husting, it is considered and adjudged by the court here, that the said plaintiff take nothing by his plaint aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said defendant do go thereof without day, &c.; and that he have a return of the goods and chattels aforesaid, to hold to him irreplevisable for ever: And it is further considered by the court here, that the said defendant do recover against the said plaintiff, the said damages assessed by the jurors aforesaid in form aforesaid, and also — *l.* for his costs and charges aforesaid, by the court here adjudged of increase to the said defendant, and with his assent, according to the form of the statute in such case made and provided; which said damages costs and charges in the whole amount to — *l.* And thereupon the said defendant, by his attorney aforesaid, prays as well execution of his damages costs and charges aforesaid, as process for the return of the said goods and chattels; which is granted to him, &c.

(§ 86.)
The like, in the
sheriffs' court
of London, with
a continuance
by *curia advi-*
sari vult.
Prac. 869. 931.

(*To the end of the postea, as in other cases, and then as follows:*) Therefore it is considered, that the said *A. B.* take nothing by his writ aforesaid, &c. (*as in the last, to "irreplevisable for ever," and then as follows:*) And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 87.)
The like, on a
nonsuit, in
K. B. or C. P.
Prac. 931.

Execution.

(*To the end of the postea, and then as follows:*) Therefore it is considered, that the said *A. B.* take nothing by his writ aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. It is also considered, that the said *C. D.*

(§ 88.)
The like, for
the arrears of
rent, &c. on a
nonsuit or ver-
dict, on stat.

17 Car. II. c.
7. § 2.

Prac. 931.

Execution.

do recover against the said *A. B.* the said — *l.* being the sum of the arrears aforesaid, in form aforesaid assessed, and also — *l.* by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in this behalf; which said arrears costs and charges in the whole amount to — *l.*; and that the said *C. D.* have execution thereof, &c.

(§ 89.)
Fieri facias, for
the plaintiff.

Prac. 993.
998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) recovered against him, for his damages which he had sustained, as well on occasion of the taking and unjustly detaining of the cattle goods and chattels of the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; (*or, in C. P.* “for his damages,” &c. *omitting the costs*;) whereof the said *C. D.* is convicted, &c. (*as before, p. 352. in K. B. or C. P.*)

(§ 90.)
The like, for
defendant, on
stat. 17 Car. II.
c. 7. for ar-
rears of rent,
&c.

Prac. 993.
998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made — *l.* which *C. D.* lately in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) recovered against him, for certain arrearages of rent, according to the form of the statute in such case made and provided; and also — *l.* which in our same court before us, (*omitting* “before us,” *in C. P.*) were adjudged to the said *C. D.* for his costs and charges by him laid out about his defence in a certain action of replevin, lately commenced and depending in the same court, at the suit of the said *A. B.* against the said *C. D.*; whereof the said *A. B.* is convicted, as appears to us of record: (*omitting the latter words, in C. P.*) And have the said monies before us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “before our said justices at *Westminster* aforesaid, on —,”) to be rendered to the said *C. D.* for the arrearages of rent, and costs and charges aforesaid; and have there this writ. Witness, &c. (582.)

(§ 91.)
The like, for
the value of the
cattle or goods
distraigned, &c.

Prac. 993.
998, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made — *l.* which *C. D.* lately in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) recovered against him, for the value of certain cattle, (*or, “goods and chattels,”*) distraigned by the said *C. D.* for certain arrearages of rent, &c. (*as in the last.*)

(§ 92.)
Retorno ha-
bendo, on a
non pros, for
want of a decla-
ration.

Prac. 418. 993.
1038, 9.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. as it was said; and the said *A. B.* afterwards in our same court before us, (*omitting* “before us,”

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in *C. P.*) made default ; wherefore it was considered in our same court, that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. ; and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* and that you do not deliver them, on the complaint of the said *A. B.* without our writ, which shall make express mention of the judgment aforesaid ; and in what manner you shall have executed this our writ, make appear to us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “to our justices at *Westminster*, on —,”) and have there this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *C. D.* was summoned to be in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore the said *C. D.* on the — day of — in the year of our Lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of him the said *A. B.* to wit, &c. (*here set out the cattle and goods, as in the declaration,*) and unjustly detained them against gages and pledges, until, &c. as it was said : And the said *C. D.* appearing in our said court before us, (*or, in C. P.* “before our said justices,”) as bailiff of *E. F.* well acknowledged the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done, (*or, “for certain arrears of rent, to wit, for the sum of —l. due and in arrear from the said A. B. to the said C. D. for the said place in which, &c. with the appurtenances, held and enjoyed under and by virtue of a certain demise thereof, made by the said C. D. for the space of —, next before and ending on the — day of —, in the year of our Lord 18—”*) : Whereupon the said *A. B.* being afterwards solemnly called in our said court before us, (*or, in C. P.* “before our said justices,”) came not, nor did he further prosecute his writ aforesaid ; wherefore it was considered in our said court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. ; and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* ; and that you do not deliver them, on the complaint of the said *A. B.* without our writ, which shall make express mention of the judgment aforesaid ; and in what manner you shall have executed this our writ, make appear to us, on —, wheresoever we shall then be in *England*, (*or, in C. P.* “to our said justices at *Westminster* aforesaid, on —,”) and have there this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *C. D.* was summoned to be in our court, &c. (*as in the last.*) And the said *C. D.* appearing in our said court before us, (*or, in C. P.* “before our said justices,”) well avowed, (*or, “as bailiff of E. F. well acknowledged,”*) &c. (*reciting the avowry or cognizance, plea in bar, de-*

(§ 93.)
The like, for
want of a plea
in bar.
Prac. 993.
1038, 9.

(§ 94.)
The like, on
demurrer to a
plea in bar, and
writ of inquiry
of damages.
Prac. 993.
1038, 9.

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murrer and joinder :) And such proceedings were thereupon had in our said court before us, (*or, in C. P. "before our said justices,"*) that it was afterwards considered by the same court, that the plea aforesaid, by him the said *A. B.* above pleaded in bar of the said avowry, (*or, "cognizance,"*) and the matters therein contained, were not sufficient in law, &c. (*as before, p. 594.*) It was also considered by the same court, that the said *A. B.* should take nothing by his said writ, &c. (*as before, pp. 594, 5.*) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him ir-replevisable, in form aforesaid; and in what manner you shall execute this our writ, make appear to us, on —, wheresoever, &c. (*as in last, or, in C. P. "to our said justices at Westminster aforesaid, on —."*) We likewise command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire, according to the form of the statute in such case made and provided, what damages the said *C. D.* hath sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; (*or, in C. P. "on occasion of the premises," omitting the costs;*) and the inquisition which you shall thereupon take, make appear to us, on the aforesaid day, wheresoever, &c. (*as in last, or, in C. P. "to our said justices at Westminster aforesaid, on —,"*) under your seal, and the seals of those by whose oath you shall take that inquisition; and have there the names of those by whose oath you shall take that inquisition, and this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court, &c. (*as in the last but one.*) And the said *C. D.* appearing in our said court before us, (*or, in C. P. "before our said justices,"*) alleged and said, that he, as bailiff of *E. F.* took the cattle goods and chattels aforesaid, in the said place in which, &c. being the soil and freehold of the said *E. F.* doing damage there; and the said *C. D.* prayed a return of the said cattle goods and chattels, to be adjudged to him, &c. And afterwards, by a certain jury of the country, upon which as well the said *C. D.* as the said *A. B.* had put themselves in that behalf, taken on the — day of — in the — year of our reign, at — in your county, before *Charles Lord Tenterden*, our chief justice, &c. by virtue of our writ of *nisi prius*, it was found, that the said place in which, &c. at the said time when, &c. was the soil and freehold of the said *E. F.* as the said *C. D.* had alleged; and the jurors of the said jury, according to the form of the statute in such case made and provided, assessed the damages of the said *C. D.* on occasion of the premises, besides his costs and charges by him laid out about his defence in this behalf, to —*l.* and for those costs and charges to —*s.* Whereupon it was afterwards considered, in our said court before us, (*or, in C. P. "before our said justices,"*) that the said *A. B.* should take nothing by his writ aforesaid, &c. (*reciting the judgment, as before, pp. 598, 9.*) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him

(§ 95.)

The like, after verdict, on a distress for *damage feasant*, and *fi. fu.* for the damages and costs.

Prac. 993.
1038, 9.

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irreplevisable, in form aforesaid ; and in what manner you shall execute this our writ, make appear to us, on —, wheresoever, &c. (*as in last but one, or, in C. P. "to our said justices at Westminster aforesaid, on —."*) We also command you, that of the goods and chattels of the said *A. B.* in your bailiwick, you cause to be made the said —*l.* for the damages costs and charges aforesaid ; and have that money before us, (*or, in C. P. "before our said justices,"*) at *Westminster* aforesaid, at the aforesaid time, to render to the said *C. D.* for his damages costs and charges aforesaid ; and have there this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *C. D.* was summoned to be in our court, &c. (*as before, p. 601.*) And the said *C. D.* appearing in our said court before us, (*or, in C. P. "before our said justices,"*) by *G. H.* his attorney, defended the wrong and injury, when, &c. and well avowed, &c. (*reciting the avowry, without the verification at the end of it.*) And the said *A. B.* in and by certain pleas in bar of the said avowry, said, that he the said *A. B.* did not hold or enjoy the said dwelling house, in which, &c. (amongst other things,) as tenant thereof to the said *C. D.* by virtue of the said supposed demise thereof, and at and under the supposed rent, in the said avowry mentioned, payable as therein also mentioned ; and that no part of the said supposed rent was due and owing from the said *A. B.* to the said *C. D.* in manner and form as the said *C. D.* had above in his said avowry in that behalf alleged. And afterwards, by a certain jury of the country, upon which as well the said *C. D.* as the said *A. B.* had put themselves in that behalf, taken on the — day of —, in the — year of our reign, at — in your county, before —, one of our justices, &c. (315, 16.) and —, one of our justices, &c. (*id.*) justices appointed to take the assizes for your said county, according to the form of the statute in that case made and provided, it was found, that the said *A. B.* held and enjoyed the said dwelling house, in which, &c. (amongst other things,) as tenant thereof to the said *C. D.* by virtue of the said demise thereof, at and under the rent payable as alleged in the said avowry ; and that the said rent was due and in arrear from the said *A. B.* to the said *C. D.* as the said *C. D.* had in his said avowry in that behalf alleged : Whereupon it was afterwards considered, in our said court before us, (*or, in C. P. "before our said justices,"*) that the said *A. B.* should take nothing by his writ aforesaid, &c. (*reciting the judgment, as before, pp. 598, 9.*) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* &c. (*as in the last.*)

George the Fourth, &c. (352.) To the sheriff of —, greeting : Whereas *C. D.* was summoned to be in our court before us, &c. (*as before, p. 601.*) And the said *C. D.* appearing in our said court before us, (*or, in C. P. "before our said justices,"*) as bailiff of *E. F.* well acknowledged the taking of the said cattle goods and chattels in the said declaration mentioned, in the said place in which, &c. and justly, &c. for certain arrears of rent, to wit, for the sum of —*l.* due and in arrear

(§ 96.)
The like, after
verdict, on a
distress for
rent.

Prac. 993.
1038.

(§ 97.)
The like, after
nonsuit, on a
distress for
rent.

Prac. 993.
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from the said *A. B.* to the said *E. F.* for the said place in which, &c. with the appurtenances, (amongst other things,) held and enjoyed under and by virtue of a certain demise thereof, made by the said *E. F.* for the space of —, next before and ending on the — day of —, in the year of our Lord 18—. And afterwards, to wit, at the assizes holden in and for your said county, on — the — day of —, in the — year of our reign, before certain justices assigned to take the assizes in and for the same county, a certain issue before then joined between the parties aforesaid, in the plea aforesaid, came on to be tried by a certain jury of the country, upon which as well the said *A. B.* as the said *C. D.* had put themselves in that behalf: And the jurors of that jury, being tried and sworn to speak the truth of and upon the said issue, withdrew from the bar, to consult of their verdict thereupon; and having consulted, and agreed among them, to give in their verdict, they came back again to the bar; whereupon the said *A. B.* (although solemnly called,) came not, nor further prosecuted his suit against the said *C. D.* And thereupon it was afterwards considered, in our said court before us, (*or, in C. P.* “before our said justices,”) that the said *A. B.* should take nothing by his writ aforesaid, &c. (*reciting the judgment for a return, as before, pp. 598, 9.*) Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* to hold him irreplevisable in form aforesaid; and in what manner you shall have executed this our writ, make appear to us, on —, wheresoever, &c. (*or, in C. P.* “to our said justices at *Westminster* aforesaid, on —,”) and have there this writ. Witness, &c. (582.)

(§ 98.)
Return of *clon-
gala*, to a writ,
or precept, of
retorno habendo.
Prac. 1038.

Before the coming of this writ (*or, “precept”*) to me, the cattle goods and chattels within mentioned were eloiigned, and removed by the within-named *A. B.* to places to me unknown: Therefore I cannot cause the same to be returned to the within-named *C. D.* as I am within commanded.

The answer of —, sheriff,
(*or, “bailiff.”*)

(§ 99.)
*Capias in wither-
num* thereon,
after judgment
of *non pros*, for
want of a de-
claration.
Prac. 1038.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* afterwards, in our same court before us, (*omitting “before us,” in C. P.*) made default; wherefore it was considered, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the cattle goods and chattels aforesaid, &c. Whereupon by our writ we commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.*; and that you should not deliver them, on the complaint of the said *A. B.* without our writ which should make express mention of the judgment aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on —,

wheresoever, &c. (*or, in C. P. "to our said justices at Westminster aforesaid, on —."*) And you at that day returned to us, that before the coming of the writ aforesaid, the cattle goods and chattels aforesaid were eloigned, and removed by the said *A. B.* to places to you unknown, so that you could not cause them to be returned to the said *C. D.* as by the said writ you were commanded: Therefore we command you, that you take in *mithernam*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid, by the said *C. D.* before taken, and cause them to be delivered to the said *C. D.* to be kept by him, until you can cause to be returned the said cattle goods and chattels, by the said *C. D.* before taken: And put by gages and safe pledges the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, (*or, in C. P. "before our said justices at Westminster aforesaid, on —,"*) to answer as well to us for his contempt, as to the said *C. D.* for the damages and injury to him in that behalf done: And in what manner you shall have executed this our writ, make appear to us, (*or, in C. P. "to our said justices at Westminster,"*) at the aforesaid time; and have there the names of the pledges, and this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court, &c. (*as before, p. 601.*) And the said *C. D.* appearing in our same court before us, (*or, in C. P. "before our said justices,"*) for a certain reason by him alleged in the same court, well avowed the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done: And the said *A. B.* afterwards, in our same court, made default; wherefore it was considered by the same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the said cattle goods and chattels, &c. Therefore we lately commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.*; and that you should not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on —, wheresoever, &c. (*as in last, or, in C. P. "to our said justices at Westminster aforesaid, on —."*) We also lately commanded you, that according to the form of the statute in such case made and provided, you should diligently inquire, by the oath of good and lawful men of your bailiwick, what damages the said *C. D.* had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in that behalf; and that the inquisition which you should thereupon take, you should send to us, wheresoever, &c. (*or, in C. P. "to our said justices at Westminster,"*) at the time aforesaid, under your seal, &c. (602.) together with the writ aforesaid: And you at that day returned to us, (*or, in C. P. "to our said jus-*

(§ 100.)
The like, for
want of a plea
in bar, and *ca.*
sa. for the da-
mages and costs.
Prac. 1038.


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tices at *Westminster* aforesaid,) that the cattle goods and chattels aforesaid were eloigned, and removed by the said *A. B.* to places to you unknown, so that you could not cause the same to be returned to the said *C. D.*; and you also returned to us, (*or, in C. P.* “to our said justices,”) a certain inquisition taken before you, at — in your county, on the — day of —, in the — year, &c. (43.) by which it was found, that the said *C. D.* had sustained damages, on occasion of the premises, besides his costs and charges, (&c.) to — *l.* and for those costs and charges to — *s.* Therefore it was considered, that the said *C. D.* should recover against the said *A. B.* his damages aforesaid, by the said inquisition in form aforesaid found, and also — *l.* by our court before us adjudged of increase to the said *C. D.* and with his assent, for his costs and charges aforesaid; which said damages costs and charges in the whole amount to — *l.* and that the said *A. B.* should be in mercy, &c. Therefore we command you, that you take in *wilthnam*, the cattle goods and chattels of the said *A. B.* in your bailiwick, to the value of the cattle goods and chattels before taken, and cause them to be delivered without delay to the said *C. D.* to hold to him irreplevisable, until the said *A. B.* shall make return to the said *C. D.* of the cattle goods and chattels aforesaid, before taken; and in what manner you shall execute this our writ, make appear to us, on —, wheresoever, &c. (*as in last, or, in C. P.* “to our said justices at *Westminster* aforesaid, on —.”) We also command you, that you take the said *A. B.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us, wheresoever, &c. (*or, in C. P.* “before our said justices at *Westminster*,”) at the aforesaid time, to satisfy the said *C. D.* of his damages costs and charges aforesaid; and have there this writ. Witness, &c. (582.)

(§ 101.)
Writ of false
judgment.
Prac. 1134.
1187, 8.

George the Fourth, &c. (352.) To the sheriff of —, greeting: If *C. D.* shall give you security to prosecute his suit, then, in your full county, cause the plaint to be recorded, which was in the same county, without our writ, between *A. B.* and the said *C. D.* of a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* as it is said, wherein the said *C. D.* complaineth that false judgment hath been given against him, in the said county; and that you have the said record, before our justices at *Westminster*, on —, under your seal; and the seals of four lawful knights of the same county, of such as shall be present at the said recording; and summon, by good summoners, the aforesaid *A. B.* that he be then there, to hear the said record; and have you there the summoners, the names of the said four knights, and this writ. Witness ourself, &c. (570.)

(§ 102.)
Scire facias,
against the
pledges for a
return, after

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* was summoned to be in our court before us, (*or, in C. P.* “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore he took the  goods and chattels of the said *A. B.* and unjustly

detained them against gages and pledges, &c.: And afterwards, the said *A. B.* in our same court, made default; wherefore it was considered, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c.; and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, &c. And thereupon we commanded you, as oftentimes before you were commanded, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* and not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid, according to the tenor of our mandates to you thereupon before directed, or that you should be yourself before us, on — last past, wheresoever, &c. (or, in *C. P.* “before our said justices, on —,”) in your proper person, to shew wherefore you had neglected to execute our mandates, to you thereupon so often directed: And you at that day returned to us, (or, in *C. P.* “to our said justices at *Westminster* aforesaid,”) that the cattle goods and chattels aforesaid were eloigned by the said *A. B.* from your view, out of your county, so that you could not return the same to the said *C. D.*: And because the said *A. B.* in the county court of —, late sheriff of your county, held at — in and for the said county, and within the jurisdiction of the same court, on — the — day of —, in the — year, &c. (43.) before — and —, then freeholders of the said county, and suitors of the same court, complained against the said *C. D.* of a plea of taking and detaining the cattle goods and chattels aforesaid, and then and there found pledges, as well to prosecute his said plaint, as to return the cattle goods and chattels aforesaid, or the price thereof, if a return thereof should be adjudged to the said *C. D.* to wit, *W. G.* and *T. S.* according to the form of the statute in such case made and provided; we command you, that by honest and lawful men of your bailiwick, you make known to the said *W. G.* and *T. S.* that they be before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our said justices at *Westminster* aforesaid, on —,”) to shew if they have or know of any thing to say for themselves, why the price of the cattle goods and chattels aforesaid should not be made of their lands and chattels in your bailiwick, and rendered to the said *C. D.* according to the form of the statute aforesaid, if it shall seem expedient for him; and further to do and receive, &c. (*as before*, p. 456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* at the — county court of — Esquire, late sheriff of your county, holden at —, in and for the said county, on — the — day of —, in the year of our Lord 18—, before *L. M. N. O. P. Q.* and *R. S.* freeholders of the said county, and suitors of the same court, levied his plaint against *C. D.* in a plea wherefore he took the cattle of him the said *A. B.* and unjustly detained them against gages and pledges, &c. as he alleged; and the said *A. B.* and *E. F.* and *G. H.* then and there became pledges, as well to prosecute the said complaint of the said *A. B.* as to return the said cattle, if a return thereof should be awarded, according

judgment of
non pros, for
want of a de-
claration.

Prac. 1038, 9.

(§ 102. a.)

The like, an-
other way, after
removal of the
cause by *re. fu.*
la. and verdict
for the avowant,
in *K. B.*

Prac. 1038, 9.

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to the form of the statute in that case made and provided ; which said plaint we afterwards, in the term of —, in the — year of our reign, by virtue of our writ of *recordari facias loquelam*, caused to be removed into our court before us ; whereupon it was considered in our same court, that the said *A. B.* should take nothing by his said plaint, but that he and his pledges to prosecute should be in mercy, for his false complaint ; and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle aforesaid, to be kept by him irreplevisable for ever ; as by the record thereof, remaining in our said court before us at *Westminster*, more fully appears: Whereupon we commanded you, that without delay you should cause the said *C. D.* to have a return of the said cattle, to be kept by him irreplevisable for ever ; and in what manner you should have executed that writ, you should make appear to us, on —, wheresoever we should then be in *England* ; and that you should have there that writ : At which day, you the said sheriff returned to us at *Westminster*, that the cattle therein mentioned, before the receipt of the said writ, were eloigned to a place to you unknown, by the therein named *A. B.*, so that the said cattle to the therein named *C. D.* you could not cause to be returned, as by the said writ you were commanded : Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B. E. F.* and *G. H.* that they be before us, on —, wheresoever, &c., to shew if they have or know any thing to say, why the value of the said cattle ought not to be made of their lands and chattels, in your bailiwick, and to be paid to the said *C. D.* according to the form of the statute aforesaid, if it shall seem expedient for him so to do ; and further to do and receive, &c. (*as before*, p. 456.)

(§ 103.)

The like, on a plaint levied in the sheriffs' court of *London*, and removed into *K. B.* by *certiorari*.

Prac. 1038, 9.

George the Fourth, &c. (352.) To the sheriffs of *London*, greeting : Whereas at a court holden on the — day of —, in the — year of our reign, before — Esquire, then one of the sheriffs of the city of *London* aforesaid, in his Compter, situate in the parish of Saint *Mildred* the Virgin in the *Poultry* of the said city, came *A. B.* and then and there, according to the custom of the said city, levied against *C. D.* his certain plaint, for his cattle goods and chattels, to wit, &c. (*selling out the cattle and goods*,) taken and unjustly detained ; and then and there found pledges to prosecute his said plaint, and to make a return of his said cattle goods and chattels, if a return thereof should be adjudged, to wit, *V. H.* and *E. L.* citizens of the city aforesaid ; and thereupon, at the prayer of the said *A. B.* to the court aforesaid, according to the custom of the said city, the cattle goods and chattels aforesaid were replevied, and delivered to the said *A. B.* : Which said plaint, with all things touching the same, were afterwards sent, and brought by the aforesaid sheriffs of *London*, at the instance of the said *A. B.* to the husting of *London*, of common pleas, holden in the *Guildhall London*, on — next after —, in the — year of our reign aforesaid, according to the custom of the said city ; and afterwards, to wit, in — term, in the — year aforesaid, by virtue of our writ, we caused the same to be certified before us, and they now

remain before us of record : And whereas the said *A. B.* afterwards declared in our court before us, against the said *C. D.* of a plea wherefore he took the cattle goods and chattels, to wit, &c. (*as before*,) of the said *A. B.* and unjustly detained them against gages and pledges, &c. ; which said taking of the cattle goods and chattels aforesaid, the said *C. D.* acknowledged, as bailiff of one *G. N.* Esquire, for certain rent then being in arrear and payable by the said *A. B.* to the said *G. N.* as his tenant for a term of years : And afterwards, in — term, in the — year of our reign, it was in such manner proceeded in our said court before us, that the said *A. B.* being solemnly called, did not come, nor prosecute his plea against the said *C. D.* ; wherefore it was considered in our same court before us, that the said *A. B.* should take nothing by his said plaint, but that he and his pledges to prosecute should be in mercy, &c. ; and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, &c. ; as by the record thereof, now remaining before us, more fully appears : And whereas also by our writ we lately commanded you, that without delay you should cause a return to be made to the said *C. D.* of the cattle goods and chattels aforesaid ; and in what manner you should have executed that our writ, you should make appear to us, on — last past, wheresoever we should then be in *England* : And you at that day returned to us, that before the coming of our said last-mentioned writ to you, the said *A. B.* had eloiigned the aforesaid cattle goods and chattels, to places to you altogether unknown, so that you could not return the same to the said *C. D.* ; as by the aforesaid writ, and the return thereof, affiled in our court before us, appears to us of record : And now, on behalf of the said *C. D.* in our court before us, we are informed, that although judgment be thereupon given, yet execution for a return of the cattle goods and chattels aforesaid, still remains to be made : Whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf ; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *V. H.* and *E. L.* that they be before us, on —, wheresoever we shall then be in *England*, to shew if they have or know of any thing to say for themselves, wherefore the cattle goods and chattels of them the said *V. H.* and *E. L.* to the value of the cattle goods and chattels aforesaid, so replevied and delivered to the said *A. B.* should not be delivered to the said *C. D.* if it shall seem expedient for him ; and further to do and receive, &c. (*as before*, p. 456.)

(*After the judgment for a return, &c. proceed as follows :*)

Afterwards, to wit, on — then next following, before the lord the king at *Westminster*, comes (*or, in C. P.* “*Afterwards, &c. comes here,*”) the said *A. B.* by *E. F.* his attorney ; and, according to the form of the statute in such case made and provided, prays the writ of the said lord

(§ 104.)
Award of writ
of second de-
liverance.

Frac. 1038.

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the king of second deliverance of the cattle goods and chattels aforesaid; and it is granted to him, returnable on —, wheresoever the said lord the king shall then be in *England*; (or, in *C. P.* “returnable here, on —;”) the same day is given to the said *C. D.* &c.

(§ 105.)
Writ of second
deliverance.

Prac. 1038.

George the Fourth, &c. (352.) To the sheriff of —, greeting: If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels, which were lately adjudged to *C. D.* in our court before us, (or, in *C. P.* “before our justices at *Westminster*,”) on account of the default of the said *A. B.* if a return thereof shall be adjudged, then cause the said cattle goods and chattels to be delivered, without delay, to the said *A. B.*; and put by gages and safe pledges, the said *C. D.* that he be before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our said justices at *Westminster* aforesaid, on —,”) to answer to the said *A. B.* of the taking and unjustly detaining of the cattle goods and chattels aforesaid; and have there the names of the pledges, and this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

(§ 106.)
The like, an-
other way.

Prac. 1038.

George the Fourth, &c. (352.) To the sheriff of —, greeting: If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels which were lately adjudged to *C. D.* in our court before us, (or, in *C. P.* “before our justices at *Westminster*,”) on account of the default of the said *A. B.* if a return thereof shall be adjudged; we command you, that if, by virtue of our writ of *retorno habendo*, to you thereupon before directed, you have caused the said cattle goods and chattels to be returned to the said *C. D.* then that you cause them to be re-delivered to the said *A. B.*; and put by gages and safe pledges, &c. (as in the last, to the end.)

(§ 107.)
Return to writ
of second de-
liverance.

By virtue of this writ to me directed, I have caused to be delivered to the within-named *A. B.* his cattle goods and chattels within-mentioned, as I am within commanded. The pledges within-mentioned are *John Den* and *Richard Fen*.

The answer of —, sheriff.

(§ 108.)
Declaration, on
writ of second
deliverance.

— (to wit.) *C. D.* was attached, by the writ of our lord the king of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* &c. (as in the declaration in *replevin*.)

The subsequent proceedings, on the writ of second deliverance, to trial and judgment, are the same as in *replevin*, only that the judgment is always for a return irreplevisable.

(§ 109.)
Retorno habendo, after judg-
ment of non
pros, on writ
of second de-
liverance, and
ca. sa. for da-
mages and
costs.

Prac. 1038.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *C. D.* lately in our court before us, (or, in *C. P.* “before our justices at *Westminster*,”) was attached, by our writ of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels, to wit, &c. (setting out the cattle and goods,) of the said *A. B.* and unjustly detained them against gages and pledges, &c.: And afterwards, the said *A. B.* in our same court, made default; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c.

and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever: Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid: We likewise command you, that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our said justices at *Westminster* aforesaid, on —,”) to satisfy the said *C. D.* of — *l.* which were adjudged to the said *C. D.* in our said court before us, (or, in *C. P.* “before our said justices,”) according to the form of the statute in such case made and provided, for his damages which he had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; whereof the said *A. B.* is convicted, as appears to us of record; and have there this writ. Witness, &c. (582.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas as by our writ we lately commanded you, that whereas *C. D.* had been attached, by our writ of second deliverance, to be in our court before us, (or, in *C. P.* “before our justices at *Westminster*,”) to answer *A. B.* in a plea wherefore he took the cattle goods and chattels of him the said *A. B.* and unjustly detained them against gages and pledges, &c.; and the said *A. B.* afterwards, in our same court, made default; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever; you should without delay cause the said cattle goods and chattels to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid; and in what manner you should execute that writ, you should make appear to us, on —, wheresoever, &c. (as in last, or, in *C. P.* “to our said justices at *Westminster* aforesaid, on —.”) And you on that day returned to us, (or, in *C. P.* “to our said justices,”) that the cattle goods and chattels aforesaid were eloigned by the said *A. B.* to places to you unknown, so that you could not return the same to the said *C. D.* as by the writ aforesaid you were commanded: Therefore we command you, that you take in *withernam*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid, by the said *C. D.* before taken, and deliver them to the said *C. D.* to hold to him irreplevisable, until you can cause the cattle goods and chattels aforesaid, by the said *C. D.* before taken, to be returned to the said *C. D.* And in what manner, &c. (605.): And put by gages and safe pledges the said *A. B.* that he be before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* “before our said justices at *Westminster* aforesaid, on —,”) to answer as well to us for his contempt, as to the said *C. D.* for his damages and injury in this behalf done; and have there this writ. Witness, &c. (582.)

(§ 110.)
Capias in *withernam*, after judgment of *non pros*, on a writ of second deliverance.

CHAP. XLVI.

NOTICES to QUIT, &c.; and PROCEEDINGS in EJECTMENT.

(§ 1.)
Notice to quit,
by the landlord,
to a tenant from
year to year.

Prac. 1223.

Sir,

I HEREBY give you notice, to quit and deliver up, on the — day of — next, the possession of the messuage or dwelling house, (or, “rooms and apartments,” or, “farm, lands and premises,”) with the appurtenances, which you now hold of me, situate in the parish of —, in the county of —. Dated the — day of — 18—.

Your's, &c.

A. B.

To Mr. C. D. (*the tenant in possession ; or, if it be doubtful who is tenant, “To Mr. C. D. or whom else it may concern.”*)

(§ 2.)
The like, by an
agent for the
landlord.

Prac. 1223.

Sir,

I do hereby, as the agent for and on behalf of your landlord *A. B.* of —, give you notice, to quit and deliver up, on the — day of — next, the possession of the messuage, &c. (*as above*;) which you now hold of the said *A. B.* situate, &c. (*as above*.) Dated, &c. (*as above*.)

Your's, &c.

E. F.

To Mr. C. D. &c. (*as above*.)

Agent for the said *A. B.*

(§ 3.)
The like, by
the landlord,
where the com-
mencement of
the tenancy is
doubtful.

Prac. 1223.

Sir,

I hereby give you notice, &c. (*as in § 1. to the date ;*) provided your tenancy originally commenced at that time of the year ; or otherwise, that you quit and deliver up the possession of the said messuage, &c. (*as above*;) at the end of the year of your tenancy, which will expire next after the end of half a year from the time of your being served with this notice. Dated, &c. (*as above*.)

Your's, &c.

A. B.

To Mr. C. D. &c. (*as above*.)

(§ 4.)
The like, more
general.

Prac. 1223.

Sir,

I hereby give you notice to quit and deliver up the possession, &c. (*as in § 1.*) which you now hold of me, situate, (&c.) at the end of the year of your tenancy, which will expire next after the end of half a year from the time of your being served with this notice. Dated, &c. (*as above*.)

Your's, &c.

A. B.

To Mr. C. D. &c. (*as above*.)

(§ 5.)
Notice, by a
joint-tenant or
tenant in com-

Sir,

I hereby give you notice of my intention to determine, on the — day of — next, the tenancy under which you now hold of me, one un-

divided moiety or half part (*or whatever part or share the landlord may have,*) of and in a certain messuage, &c. (*as in § 1.*) situate, (&c.) Dated, &c. (612.)

mon, to determine tenancy of a moiety, &c.
Prac. 1223.

To Mr. C. D. &c. (*as in § 1.*)

Your's, &c.

A. B.

Sir,

I hereby give you notice of my intention to quit, and that I shall, on the — day of — next, quit and deliver up the possession of the messuage, &c. (*as in § 1.*) which I now hold of you, situate, &c. (*id.*) Dated, &c. (612.)

Your's, &c.

(§ 6.)
The like, by a tenant from year to year, of his intention to quit.

Prac. 1223.

To Mr. A. B.

C. D.

Sir,

I do hereby, as the agent for and on behalf of A. B. of —, give you notice of his intention to determine, and that he will accordingly determine, on the — day of — next, the agreement under which you hold and enjoy (*or, "the composition payable by you, for and in respect of"*) all and singular the tithes of corn, &c. (*describing them,*) arising, growing, increasing, renewing and happening, in upon from and out of all and every the several and respective farms, lands and premises, (*or, "in upon from and out of certain lands and premises in your occupation,"*) situate in the parish of — in the county of —, and within the bounds limits and titheable places thereof; and that the said tithes will, from and after the said — day of — next, be taken in kind. Dated, &c. (612.)

Your's, &c.

(§ 7.)
The like, by an agent for the landlord, to determine a tenancy of, or composition for tithes.

Prac. 1223.

To Mr. C. D.

T. F.

Agent for the said A. B.

Whereas by a certain indenture of lease, bearing date on or about the — day of — which was in the year of our Lord 18—, and made or mentioned to be made between me A. B. of —, of the one part, and you C. D. of —, of the other part, I the said A. B. for the considerations therein mentioned, did demise and lease to you the said C. D. your executors, administrators and assigns, a certain messuage, &c. (*as in § 1.*); to hold the same to you the said C. D. your executors, administrators and assigns, from thenceforth, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; determinable nevertheless as therein and hereinafter is mentioned: And in which said indenture of lease is contained a *proviso* or condition, that if, &c. (*reciting the proviso.*) Now I the said A. B. in pursuance of the liberty given me by the aforesaid *proviso* or condition, do hereby give you notice, that it is my mind and intention to avoid the said recited indenture of lease, at the end of the first seven years of the said term of — years thereby granted. Dated, &c. (612.)

Your's, &c.

(§ 8.)
Notice, by a landlord, to determine a lease at the end of the first seven years.

Prac. 1223.

To Mr. C. D.

A. B.

Sir,

I do hereby (*or, if given by an agent, "I do hereby, as the agent of and for A. B. your landlord, and on his behalf,"*) according to the form of the statute in such case made and provided, demand and require you forthwith to quit and deliver up to me, (*or, "to the said A. B."*) the possession of the dwelling house, (*or, "farm, lands and premises,"*) with the

(§ 8. a.)
Demand of possession, by landlord or his agent, on stat. 1 Geo. IV. c. 87. § 1.
Prac. 1209.
1223.

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appurtenances, situate and being in the parish of — in the county of —, and which were held by you, as tenant thereof, under a lease, (or, "agreement in writing,") bearing date, &c. (*date of lease, or agreement,*) for the term of — years, which expired on the — day of — last: (Or, "from year to year; and which tenancy was determined by me," or, "by the said *A. B.*" or, "by you," by a regular notice to quit, on the — day of — last.") Dated the — day of — 18—.

Your's, &c.

A. B. (or, "*E. F.* agent for the said *A. B.*")

To Mr. *C. D.* tenant in possession.

(§ 9.)

Notice by a mortgagee, not to pay rent to the mortgagor.

Sir,

Take notice, that by indentures of lease and release, bearing date, &c. (*date of indentures,*) the release being of three parts, and made between *A. B.* of — of the first part, *C. D.* of — of the second part, and *E. F.* of — of the third part, the messuage, &c. (*as in § 1.*) now in your occupation, situate and being in the parish of — in the county of —, were conveyed and assured (amongst other things) to the said *E. F.* for better securing the payment of the sum of —*l.* and interest by the said *C. D.* to the said *E. F.* at a certain time in the said indenture of release mentioned, and now past; and which said sum of —*l.* with a considerable arrear of interest thereon, is still due and unpaid to the said *E. F.* I do therefore, as the attorney of and for the said *E. F.* hereby give you notice, not to pay any rent now due, or hereafter to become due from you, for the said messuage, (&c.) to the said *C. D.* or to any other person or persons than to the said *E. F.* or to me as his attorney, or to such other person or persons as shall be duly authorized by him to receive the same. Dated, &c. (*as above.*)

Your's, &c.

I. K.

To Mr. *G. H.*

Sir,

(§ 10.)

Notice by the trustee of a term for securing an annuity, to pay him the rent, for satisfying the arrears, &c.

Take notice, that by indenture, bearing date, &c. (*date of indenture,*) and made between *A. B.* of — of the first part, *E. F.* of the second part, me the under-written *G. H.* of the third part, and *I. K.* of —, of the fourth part, the said *A. B.* for the considerations therein mentioned, did give grant and confirm unto the said *E. F.* his executors administrators and assigns, for and during the natural life of the said *A. B.* one annuity or clear yearly sum of —*l.* of lawful money of Great Britain, to be yearly issuing, going, had, received and taken by him the said *E. F.* by and out of a certain manor, and certain messuages, lands, tenements, hereditaments and premises therein particularly mentioned, situate and being at — in the county of —, and comprising, amongst other things, certain lands and premises in your occupation; the same annuity or yearly sum of —*l.* to be payable quarterly, at the time and in manner therein mentioned, with powers of distress and entry, in case of the non-payment thereof. And for the further better and more effectual securing of the payment of the said annuity or yearly sum of —*l.* at the times and in manner aforesaid, the said *A. B.* did thereby grant, bargain, sell and demise the said manor, messuages, &c. (*as before,*) unto

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me the said *G. H.* for a term of — years, if the said *A. B.* should so long live: And I do hereby further give you notice, that there is now due and owing to the said *E. F.* the sum of — *l.* for arrears of the said annuity or yearly sum of — *l.* up to the — day of — last: And I do therefore hereby require you, not to pay any rent now due, or hereafter to become due, for the aforesaid lands and premises in your occupation, or any part thereof, to the said *A. B.* or to any other person than me the said *G. H.* or such other person or persons as I shall appoint to receive the same, until the said sum of — *l.* together with the growing and future payments of the said annuity or yearly sum, and all costs charges and expenses sustained or occasioned by the non-payment thereof, shall be fully paid and satisfied. Dated, &c. (612.) Your's, &c.

To Mr. *C. D.*

G. H.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

John Doe, on the demise
of *A. B.* . . . plaintiff,
and

(§ 11.)
Attornment.

C. D. (&c.) defendants.

Be it remembered, that we whose names are hereunder written, being the several tenants in possession of the premises in question in this cause, situate and being in the parish of — in the county of —, do hereby severally attorn tenants, to *A. B.* of —, the lessor of the plaintiff in this cause, for such parts of the said premises, as are in our respective possessions; and we, and each and every of us, have this day severally paid to the said *A. B.* the sum of 1*s.* upon such attornment, on account and in part of the rent due, and to become due from us, severally and respectively, for and in respect of the said premises; and we do severally and respectively become tenants thereof to the said *A. B.* from the — day of — last past. As witness our hands, this — day of —, in the year of our Lord 18—.

Witness, *I. K.*

C. D. (&c.)

Know all men by these presents, that I *A. B.* of —, have made, ordained, constituted and appointed, and by these presents do make, ordain, constitute and appoint *G. H.* of —, my true and lawful attorney, for me, and in my name, to enter into and take possession of a certain messuage, (&c.) late in the tenure and occupation of —, situate and being in the parish of — in the county of —, but now untenanted; and after the said *G. H.* hath taken possession thereof, for me, and in my name, and as my act and deed, to sign seal and execute a lease of the said premises with the appurtenances, unto *E. F.* of —; to hold the same to him the said *E. F.* his executors, administrators and assigns, from the — day of — last past, before the date hereof, for the term of — years, at the yearly rent of a pepper corn, if lawfully demanded; subject to a *proviso*, for making void the same, on tendering the sum of sixpence to the said *E. F.* his executors or administrators. In witness, &c. (*ante*, 132.)

(§ 12)
Power of attorney, to enter and seal a lease on the premises.

Prac. 1201.

Sealed and delivered, &c. (*id.*)

A. B.

(§ 13.)
Affidavit of exe-
cuting same.
Prac. 1202.

I. K. of — gentleman, maketh oath and saith, that he was present, and did see *A. B.* of —, named in the letter of attorney hereunto annexed, duly sign seal and deliver the said letter of attorney.

Sworn, &c. (175.)

I. K.

(§ 14.)
Lease.
Prac. 1201.

This indenture made the — day of —, &c. (*date of indenture*), between *A. B.* of —, of the one part, and *E. F.* of —, of the other part, witnesseth, that the said *A. B.* for and in consideration of the sum of five shillings of lawful money of *Great Britain*, to him in hand paid by the said *E. F.* at or before the sealing and delivery of these presents, the receipt whereof the said *A. B.* doth hereby acknowledge, hath demised granted and to farm let unto the said *E. F.* his executors and administrators, all that messuage, &c. (*describing the premises*), situate and being in the parish of — in the county of —, late in the tenure and occupation of —, but now untenanted; to have and to hold the same unto the said *E. F.* his executors and administrators, from the — day of — last past, before the date hereof, for and during and unto the full end and term of — years, from thence next ensuing, and fully to be complete and ended; yielding and paying therefore yearly and every year, during the said term, unto the said *A. B.* or his assigns, the rent of one pepper corn, if lawfully demanded, at the feast of —: Provided always, and these presents are on this condition, that if the said *A. B.* or his assigns shall at any time or times hereafter, tender or cause to be tendered unto the said *E. F.* his executors or administrators, the sum of six pence, that then and in such case, and from thenceforth, this present indenture, and every thing herein contained, shall cease determine and be absolutely void, any thing herein contained to the contrary thereof in any wise notwithstanding. In witness whereof, the parties hereto have interchangeably set their hands and seals, the day and year first above written.

A. B.

E. F.

Scaled and delivered, as the act and deed of
the above-named *A. B.* by *G. H.* of —,
by virtue of a letter of attorney to him for
that purpose made by the said *A. B.* bearing
date the — day of — 18—, (being
first duly stamped,) in the presence of,

I. K.

(§ 15.)
Declaration.
Prac. 1202.

The declaration in *ejectment* on a *vacant* possession, at common law, is the same as in other cases, for which *vide post*, p. 618, &c. only that the plaintiff and defendant, as well as the lessor of the plaintiff, are in this case the real parties; as for instance, *E. F.* the lessee of the premises should be plaintiff, *C. D.* (*a real ejector*), defendant, and *A. B.* lessor of the plaintiff; and instead of the common notice, at the end of the declaration, substitute the following one:

(§ 16.)
Notice to appear, &c.
Prac. 1202.

Take notice, that unless you appear in his majesty's court of King's Bench at *Westminster*, within the first *four* days (*or, if in the country*, "within the first *eight* days") of next — term, at the suit of the

above-named plaintiff *E. F.* and plead to this declaration in ejectment, judgment will be thereupon entered against you by default.

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Your's, &c.

To Mr. *C. D.*

I. K. plaintiff's attorney.

In the King's Bench.

E. F. on the demise of

(§ 17.)

A. B. . . plaintiff,

Affidavit, to
move for judgment, in K. B.

Between

and

C. D. . . . defendant.

Prac. 1202.

I. K. of — gentleman, maketh oath and saith, that on the — day of — last, he this deponent did see *G. H.* in the letter of attorney hereto annexed named, for and in the name of *A. B.* the lessor of the plaintiff, enter upon and take possession of the messuage, in the lease hereto also annexed mentioned, by entering on the threshold of the outer door thereof, and putting his finger into the key-hole of the said door, the said messuage being then locked up and uninhabited, so that no other entry thereon could be made, nor any possession thereof taken, without force: And this deponent further saith, that he did, on the same day, see the above-named *G. H.* after such entry made, and whilst he stood on the threshold of the said door, duly sign and seal the lease hereunto annexed, in the name of the said *A. B.* and as his act and deed deliver the same unto the said *E. F.* the plaintiff above named; and that after the said lease was so executed, this deponent did see the said *E. F.* take possession of the said messuage, by virtue of the said lease, by entering upon the threshold of the said outer door, and putting his finger into the key-hole of the said door, the said messuage being then locked up and uninhabited, so that no other entry could be made thereon, save as aforesaid; and that immediately afterwards, the said *C. D.* the defendant, came and removed the said *E. F.* from the said door, and put his foot on the threshold thereof; whereupon this deponent did, on the day and year aforesaid, deliver to the said defendant *C. D.* who still continued upon the said threshold, a true copy of the declaration of ejectment, and notice thereunder written, hereto annexed.

I. K.

Sworn, &c. (175.)

In the Common Pleas, this *affidavit* is unnecessary; but, on the first day of term, the plaintiff gives a rule to plead, as in common cases; and at the expiration of the time for pleading, if there be no appearance and plea, signs judgment as a matter of course.

Prac. 1202.

George the Fourth, &c. (352.) To the sheriff of —, greeting: If *John Doe* shall give you security of prosecuting his claim, then put by gages and safe pledges *Richard Roe*, late of —, yeoman, that he be before us, on —, wheresoever we shall then be in *England*, (or, in *C. P.* "that he be before our justices at *Westminster*, on —,") to shew wherefore, with force and arms, he entered into — messuages, &c. (as in § 20.) with the appurtenances, in —, which *A. B.* hath demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm; and other wrongs to the said *John Doe* there did, to the great

(§ 18.)
Original writ,
in K. B. or
C. P.

Prac. 1205.

majesty's court of King's Bench, wheresoever his said majesty shall then be in *England*, (or, in the *Common Pleas*, "in his majesty's court of common Bench at *Westminster*,") by some attorney of that court ; and then and there, by rule of the same court, to cause yourself to be made defendant in my stead ; otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Your's, &c.

Richard Roe.

In the King's Bench, &c. (618.)

— term, &c. (*id.*)

— (to wit.) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into the manor of —, in the county of —, with the rights members and appurtenances thereunto belonging, and also into the rectory of the parish church of — in the county aforesaid, and into — messuages, &c. (618.) and also into all and singular the tithes of corn, grain, hay, wood, grass, wool, lambs and calves, arising, growing, renewing, increasing and happening within the said parish of —, and within the bounds limits and titheable places of the said rectory, which *A. B.* had demised and granted to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm ; and other wrongs, &c. (*as in the last declaration :*) And thereupon, &c. (618.) that whereas the said *A. B.* on the — day of —, in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, by a certain indenture then and there made, and sealed with the seal of the said *A. B.* and which the said *John Doe* now brings here into court, the date whereof is the same day and year aforesaid, had demised and granted the said manor, rectory, tenements and tithes with the appurtenances, to the said *John Doe* ; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended : By virtue of which said demise and grant, the said *John Doe* entered into the said manor, rectory, tenements and tithes with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted : And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said manor, rectory, tenements and tithes with the appurtenances, which the said *A. B.* had demised and granted to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm ; and other wrongs, &c. (*as in § 20. with the like notice to appear.*)

In the King's Bench, &c. (618.)

— term, &c. (*id.*)

— (to wit.) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, &c. (618.) with the appur-

(§ 22.)

Declaration, for
a manor, rectory,
and tithes.

Prac. 1205, 6.

(§ 23.)

The like, on a
double demise,
with one ouster.

Prac. 1206.

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tenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, &c. (618.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said several farms; and other wrongs, &c. (618.) And thereupon, &c. (*id.*) that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements first above mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years, from thence next ensuing, and fully to be complete and ended: And also that whereas the said *E. F.* on the said — day of —, in the — year aforesaid, at the parish aforesaid in the county aforesaid, had demised the said tenements secondly above mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years, from thence next ensuing, and fully to be complete and ended: By virtue of which said several demises, the said *John Doe* entered into the said several tenements first and secondly above mentioned with the appurtenances, and became and was thereof possessed, for the said several terms so to him thereof respectively granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of —, in the — year aforesaid, with force and arms, &c. entered into the said several tenements first and secondly above mentioned with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which are not yet expired, and ejected the said *John Doe* from his said several farms; and other wrongs, &c. (*as before*, p. 618. *with the like notice to appear*.)

In the King's Bench, &c. (618.)

— term, &c. (*id.*)

— (to wit.) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, &c. (618.) with the appurtenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, &c. (618.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said last-mentioned farm; and other wrongs &c. (*as before*, p. 618.) And thereupon, &c. (*id.*) that whereas the said *A. B.* on the — day of —,

(§ 24.)

The like, with
two ousters.

Prac. 1206.

in the — year of the reign of our said lord the king, at the parish aforesaid, in the county aforesaid, had demised the said tenements first above mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years, from thence next ensuing, and fully to be complete and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements first above mentioned with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of —, in the — year aforesaid, with force and arms, &c. entered into the said tenements first above mentioned with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected him the said *John Doe* from his said farm: And also that whereas the said *E. F.* on the said — day of —, in the — year aforesaid, at the parish aforesaid, in the county aforesaid, had demised the said tenements secondly above mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended: By virtue of which said last mentioned demise, the said *John Doe* entered into the said tenements secondly above mentioned with the appurtenances, and became and was thereof possessed, for the said last-mentioned term, so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the said — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements secondly above mentioned with the appurtenances, which the said *E. F.* had demised to the said *John Doe*, in manner and for the term last aforesaid, which is not yet expired, and ejected the said *John Doe* from his said last-mentioned farm; and other wrongs, &c. (*as before, p. 618. with the like notice to appear.*)

In the King's Bench, &c. (618.)

— term, &c. (*id.*)

— (to wit.) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into one undivided moiety or half part, (the whole into two equal moieties or half parts to be divided,) of — messuages, &c. (618.) with the appurtenances, situate, &c. (*id.*) which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into one other undivided moiety or half part, (the whole into two equal moieties or half parts to be divided,) of — other messuages, &c. (618.) with the appurtenances, situate, &c. (*id.*) which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said last-mentioned farm; and other

(§ 25.)
The like, by
tenants in
common.

Prac. 433.
1205.

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wrongs, &c. (618.) And thereupon, &c. (*id.*) that whereas the said *A. B.* on, &c. (620, 21.) at, &c. (*id.*) had demised the said undivided moiety or half part of the said tenements first above mentioned with the appurtenances, to the said *John Doe*; to have and to hold, &c. (*as in the last*;) By virtue of which said demise, the said *John Doe* entered into the said undivided moiety or half part of the said tenements first above mentioned with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on, &c. (621.) with force and arms, &c. entered into the said undivided moiety or half part of the said tenements first above mentioned with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected him the said *John Doe* from his said farm: And also that whereas the said *E. F.* on the said, &c. (621.) at, (&c.) aforesaid, had demised the said undivided moiety or half part of the said tenements secondly above mentioned with the appurtenances, to the said *John Doe*; to have and to hold, &c. (*as before, substituting secondly, for first above mentioned*;) and other wrongs, &c. (618.)

Ellenborough.

— term, &c. (618.)

— (to wit.) *John Doe* complains of *Richard Roe*, being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself; for that whereas *A. B.* on the — day of —, in the — year of the reign of our said lord the king, at the parish of —, in the county of —, had demised to the said *John Doe*, — messuages, &c. (618.) with the appurtenances, situate and being in the parish aforesaid, in the county aforesaid; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of —, in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs to the said *John Doe* then and there did, against the peace of our said lord the king, and to the damage of the said *John Doe* of —l. and therefore he brings his suit, &c.

Pledges to prosecute, { *John Den*,
and
Richard Fen.

Notice (*as before*, pp. 618, 19:) to appear, “in his majesty’s court of King’s Bench, at *Westminster*.”

(§ 26.)
Declaration by
bill, in K. B.

Prac. 432.
1205. 1208.

In the Exchequer.

— term, &c. (618.)

— (to wit.) *John Doe*, a debtor to our sovereign lord the now king, comes before the barons of his majesty's Exchequer at *Westminster*, on the — day of —, (*last day of the term preceding the time of service*;) in this same term, by — his attorney, and complains by bill against *Richard Roe*, present here in court the same day, of a plea of trespass and ejectment of farm; for that whereas, &c. (*as in the last, concluding as follows*;) to the damage of the said *John Doe* of —l. whereby he is the less able to satisfy our said lord the king, the debts which he owes to his majesty, at his said Exchequer, and therefore he brings his suit, &c.

Pledges, &c. (*as in last*.)

Mr. C. D.

I am informed that you are in possession of, or claim title to the premises, in this declaration of ejectment mentioned, or some part thereof; and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in my stead, in next — term, in the office of Pleas of his majesty's court of Exchequer at *Westminster*, and then and there defend your title to the aforesaid premises, or to such part or parts thereof, as is or are in your possession; otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Your's, &c.

Richard Roe.

In the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

Between

John Doe, on the demise
of *A. B.* plaintiff,

and

Richard Roe, defendant.

(§ 29.)

Notice by landlord, or his attorney, to appear and find bail, &c. on stat. 1 Geo. IV. c. 87.

Mr. C. D.

I do hereby, according to the form of the statute in such case made and provided, require you to appear to the above declaration in ejectment, on the first day of next — term, in his majesty's court of King's Bench at *Westminster*, (*by bill; or, by original*, "in his majesty's court of King's Bench, wheresoever his said majesty shall then be in *England*;" or, in *C. P.* "in his majesty's court of Common Pleas at *Westminster*;" or, in the *Exchequer*, "in the office of Pleas of his majesty's court of Exchequer at *Westminster*,") there to be made defendant, instead of the casual ejector or nominal defendant *Richard Roe*, and to find such bail, if ordered by the said court, and for such purposes, as are specified in and by an act of parliament, made and passed in the first year of the reign of his present majesty, intituled "An act for enabling landlords more speedily to recover possession of lands and tenements, unlawfully held over by tenants." Witness my hand, the — day of — 18—.

A. B.

To Mr. C. D. the tenant in pos- } Lessor of the above-named plaintiff,
session of the premises, in the above } and landlord of the premises, in the
declaration of ejectment mentioned. } above declaration mentioned.

(§ 27.)

The like, in the Exchequer.

Prac. 1205.

(§ 28.)

Notice to appear thereto.

Prac. 1207.
1209.

Prac. 1207.
1209. 1218.

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XLVI.

(§ 30.)
The like, more
special.

Prac. 1207.
1209. 1218.

If the notice be signed by the attorney, his signature is thus: "E. F. attorney for A. B. the lessor of the plaintiff in this ejectment."

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I do hereby, according to the form of the statute in such case made and provided, require you to appear to the above declaration in ejectment, on the first day of next — term, in his majesty's court of King's Bench, &c. (*as in last*.) there to be made defendant, instead of the casual ejector or nominal defendant *Richard Roe*, and to find bail, if ordered by the said court, for payment of the costs and damages which shall be recovered by the plaintiff in the said action: And I do hereby give you notice, that counsel will be instructed, as soon as conveniently may be, to move the said court, for a rule on you, as tenant of the said premises, upon your being admitted defendant, to shew cause why, beside entering into the common rule, and giving the common undertaking, you should not undertake, in case a verdict shall pass for the plaintiff in the said action, to give the said plaintiff a judgment, to be entered up against you, of the term next preceeding the time of trial; and also why you should not enter into a recognizance, by yourself and two sufficient sureties, in a reasonable sum, conditioned to pay the costs and damages which shall be recovered by the plaintiff in the said action, pursuant to the statute in such case made and provided. Dated the — day of — 18—.

Your's, &c.

To Mr. C. D. &c. (*as in last*.)

A. B. &c. (*as in last*.)

(§ 31.)
Affidavit of
service of de-
claration in
ejectment, on
the tenant.

Prac. 1210.
1215. 1219.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I. K. of — gentleman, maketh oath and saith, that he this deponent did, on the — day of — last, (*or, instant,*) personally serve *C. D.* tenant in possession of the premises, in the declaration of ejectment hereunto annexed mentioned, with a true copy of the said declaration, and of the notice (*or, if the ejectment be brought by landlord against tenant, on statute 1 Geo. IV. c. 87. "of the several notices"*) thereunder written, hereto annexed; and this deponent at the same time read over the said notice (*or, "notices"*) to the said *C. D.* and explained to him the intent and meaning of such service; (*or generally, thus: "and this deponent at the same time acquainted the said C. D. with the intent and meaning of the said declaration and notice," or, "notices."*) *I. K.*

Sworn, &c. (175.)

(§ 32.)
The like, on te-
nant of part of
the premises.

Prac. 1215.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I. K. of — gentleman, maketh oath and saith, that he this deponent did, on the — day of — last, (*or, instant,*) personally serve *C. D.* tenant in possession of part of the premises, &c. (*as in last*.) *I. K.*

Sworn, &c. (175.)

(§ 33.)
The like, on
tenant's wife.

Prac. 1215.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I. K. of — gentleman, maketh oath and saith, that he this deponent did, on the — day of — last, (*or, instant,*) personally serve *E.* the wife of *C. D.* tenant in possession, &c. (*as above*.) at the dwelling house

(or, "place of residence") of the said *C. D.* situate at, (&c.) with a true copy, &c. (*as in last*; or, *if the wife was not served on the premises, instead of stating the place of service, say*;) And this deponent further saith, that at the time of serving the said declaration and notice as herebefore mentioned, the said *C. D.* and *E.* were living together as man and wife.

Sworn, &c. (175.)

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 34.)

I. K. of — gentleman, maketh oath and saith, that he did, on the — day of — last, (*or, instant,*) personally serve *C. D.* (&c.) tenants in possession, &c. (*as in last*;) with the said declaration, and the notice thereunder written, by delivering a true copy of the said declaration and notice to each of them the said *C. D.* &c. (*and, if the notice was not directed to all the tenants, say, "except that the said notice was directed to each of them the said C. D. &c. separately;"*) and this deponent at the same time read over the said notice to each of them the said *C. D.* &c. and explained to them respectively, the intent and meaning of such service: (*or generally, that "this deponent at the same time acquainted each of them the said C. D. &c. with the intent and meaning of the said declaration and notice."*)

The like, on several tenants, all of whom were served on the same day.

Prac. 1216, 17.

I. K.

Sworn, &c. (175.)

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 35.)

I. K. of — gentleman, maketh oath and saith, that he this deponent did, on the — day of — last, (*or, instant,*) personally serve *C. D.* tenant in possession of part of the premises, in the declaration of ejectment hereunto annexed mentioned, with a true copy, &c. (*as in § 31.*) And this deponent further saith, that he did, on the — day of — last, (*or, instant,*) personally serve *E. F.* tenant in possession of other part of the premises, in the said declaration of ejectment mentioned, with a true copy, &c. (*as in § 31.*) And this deponent further saith, that he did, on the — day of — last, (*or, instant,*) personally serve *G. H.* tenant in possession of other part, and residue of the premises in the said declaration of ejectment mentioned, with a true copy, &c. (*as in § 31.*)

The like, when they were served on different days.

Prac. 1216, 17.

Sworn, &c. (175.)

I. K.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 36.)

I. K. of — gentleman, maketh oath and saith, that he did, on the — day of — instant, personally serve *C. D.* tenant in possession of part of the premises in the declaration of ejectment hereunto annexed mentioned, with a true copy of the said declaration, and of the notice thereunder written; and this deponent at the same time read over the notice thereunder written to the said *C. D.* and explained to him the intent and meaning of such service: And this deponent further saith, that he did, on the same day, also serve *G. H.* tenant in possession of other part (*or, "residue"*) of the premises in the said declaration mentioned, with another true copy of the said declaration and notice thereunder written, by

The like, on one tenant, and the wife of another.

Prac. 1210.
1217.

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delivering the same to, and leaving it with *E.* the wife of the said *G. H.* at the dwelling house of the said *G. H.* being parcel of the premises in the said declaration mentioned; and this deponent at the same time read over the notice thereunder written to the said *E. H.* and explained to her the intent and meaning of such service. *I. K.*

Sworn, &c. (175.)

(§ 37.)

The like, when the tenant's wife refused to open the door, but the tenant afterwards acknowledged the receipt of the declaration.

Prac. 1213.
1217.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I. K. of — gentleman, maketh oath and saith, that he this deponent, on the — day of — last, went to the messuage of *C. D.* situate at —, being the messuage in question in this cause; and that *E.* the wife of the said *C. D.* refused to open the door of the said messuage; but spoke to this deponent, through the wicket of the said door. And this deponent further saith, that he did thereupon shew to the said *E. D.* a true copy of the declaration in ejectment, and notice thereunder written, hereunto annexed, and acquainted her with the contents thereof; but that as soon as he had so done, the said *E. D.* shut the said wicket, and refused to take the said declaration, or notice. And this deponent further saith, that not being able to deliver the same, he affixed the said declaration and notice on the door of the said messuage; and that the said *C. D.* on the same day acknowledged that he had received the same.

Sworn, &c. (175.)

I. K.

(§ 38.)

Rule to shew cause, why service on the tenant's niece should not be good service, in *K. B.*

Prac. 489.
1219.

— on (*or*, next after) —, &c. (175.)

Doc, on the demise of *A. B.* } Upon reading the affidavit of *I. K.* and
Roe } the declaration in ejectment and notice thereto annexed; It is ordered, that *C. D.* the tenant in possession of the premises in question, upon notice of this rule to be given to him, shall, upon — next after —, shew cause, why the service of the said declaration and notice upon *M. H.* his niece, should not be deemed as good service of the same, as if served upon him the said *C. D.*: And it is further ordered, that leaving a copy of this rule at the house of the said *C. D.* with some person there, or, in case no person can be met with, affixing a true copy thereof on the outer door of the said house, shall be deemed good service of the said rule upon the said *C. D.* Upon the motion of *Mr. Samuel Comyn*.
By the Court.

(§ 39.)

The like, why service on the landlord, and a tenant of part of the premises, being his steward, &c. should not be good service, in *K. B.*

Prac. 489.
1219.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *I. K.* and
Roe } another, and the declaration in ejectment and notice thereto annexed; It is ordered, that *C. D.* tenant of part, and landlord of all the premises in question in this cause, upon notice of this rule to be given to him, or left for him at his dwelling house at — in the county of —, and *E. F.* another tenant of part of the said premises, and who acts as steward or bailiff to the said *C. D.* in the management and receipt of the rents of the premises in question, upon notice of this rule to be also given to him, shall, upon, &c. (*as in last*,) shew cause, why the declarations and notices, the one nailed upon the door of a barn, being part of the premises in question, in the possession of the said *C. D.* and another copy nailed on the front door of the rectory house, late in the

possession of *G. H.* other part of the said premises, which rectory house was shut and fastened up, and is more particularly described in the above affidavit, and another copy of the said declaration and notice, delivered to *E. D.* sister of the said *C. D.* should not be deemed as good service thereof, as if they had been personally served upon the said *C. D.*: And it is further ordered, that leaving a copy of this rule at the house of the said *C. D.* with some person living there, and delivering another copy of this rule to the said *E. F.* above-mentioned, shall be deemed as good service thereof, as if personally served on the said *C. D.* Upon the motion of *Mr. Seth Thompson.*

By the Court.

In the King's Bench, &c. (623.)

John Doe, on the demise, &c. (*id.*)

(§ 40.)

Affidavit of service of declaration, &c. on stat. 4 Geo. II. c. 28. when the premises are untenanted.

Prac. 1217.

A. B. of —, the lessor of the plaintiff in this cause, and *I. K.* of — gentleman, severally make oath and say; and first, this deponent *I. K.* for himself saith, that he did, on the — day of — last, affix a copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the messuage in the said declaration mentioned, (*or, in case the ejectment is not for the recovery of a messuage,* “upon —, being a notorious place of the lands, tenements or hereditaments, comprised in the said declaration in ejectment,”) there being no tenant then in the actual possession thereof: And this deponent *A. B.* for himself saith, that before such copy of the said declaration in ejectment was affixed as aforesaid, there was due to him this deponent, as landlord of the said messuage, (*or, lands, tenements or hereditaments,*”) with the appurtenances, from *C. D.* the tenant thereof, the sum of —*l.* for half a year's rent, upon and by virtue of a certain indenture of lease, bearing date the — day of — 18—, and made between this deponent of the one part, and the said *C. D.* of the other part; and that no sufficient distress was then to be found upon the said messuage, (*or, “lands, tenements or hereditaments,”*) with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration in ejectment as aforesaid, he had power to re-enter the said messuage, (*or “lands, tenements or hereditaments,”*) with the appurtenances, by virtue of the said lease, for the non-payment of the rent so in arrear as aforesaid.

A. B.

Sworn, &c. (175.)

I. K.

(§ 41.)

The like, another way.

Prac. 1217.

A. B. of —, the lessor of the plaintiff in this cause, and *I. K.* of — gentleman, severally make oath and say; and first, this deponent *I. K.* for himself saith, that this ejectment is brought for the recovery of the possession of a messuage with the appurtenances, situate in the parish of — in the county of —, held by *C. D.* as tenant thereof to the said *A. B.* at the yearly rent of —*l.*; and that he this deponent did, on the — day of — instant, affix a true copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the said messuage, there being no tenant then in the actual possession thereof: And this deponent *A. B.* for himself saith, that before

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the copy of the said declaration in ejectment was so affixed as aforesaid, there was due for rent to him this deponent, as landlord of the said messuage with the appurtenances, from the said *C. D.* the tenant thereof, the sum of — *l.* and upwards, for — then elapsed; and that no sufficient distress was then to be found upon the said messuage with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration in ejectment as aforesaid, he had power to re-enter the said messuage with the appurtenances, for the non-payment of the rent so in arrear as aforesaid.

A. B.

Sworn, &c. (175.)

I. K.

(§ 42.)
Rule for judgment against casual ejector, for the whole premises, in *K. B.*

Prac. 489.
1219, 20, 21.

Doe, on the demise of *A. B.* } Unless the tenant (*or*, “tenants,” *if* *Roe*. } several, and they are all served,) in possession of the premises in question, shall appear and plead to issue, on — next after —, (*four days after granting the rule, in town causes; or, in country causes, four days after the end of the term;*) let judgment be entered for the plaintiff, against the now defendant *Roe*, by default. Upon the motion of *Mr. W. E. Taunton*. By the Court.

If the premises are untenanted, say: “Unless some person claiming title to the premises in question,” shall appear, &c. (*as above*.)

(§ 43.)
The like, for part of the premises.

Prac. 489.
1219, 20, 21.

Doe, on the demise of *A. B.* } Unless *C. D.* tenant in possession of *Roe*. } part of the premises in question, shall appear and plead to issue, on — next after —, (*as in last*;) let judgment be entered for the plaintiff, against the now defendant *Roe*, by default: But execution shall issue for such part of the premises only, as is in his possession. Upon the motion of *Mr. James Lewis*.

By the Court.

(§ 44.)
The like, when part of the premises is untenanted, and part untenanted.

Prac. 489.

Doe, on the demise of *A. B.* } Unless *C. D.* (&c.) tenants in possession *Roe*. } of part of the premises in question, and unless —, or some other person claiming title to such parts of the said premises as are untenanted, shall appear and plead to issue, on — next after —, let judgment be entered for the plaintiff, against the now defendant *Roe*, by default: But execution shall issue for such part of the premises only, as is in the possession of the said tenants, and such other parts as are untenanted. Upon the motion of *Mr. Joseph Chitty*.

By the Court.

(§ 45.)
Rule for judgment, in *C. P.*

Prac. 1219,
20, 21.

In the Common Pleas.

— term, in the — year of the reign of king *George* the Fourth.

Doe on the demise of *A. B.* against *Roe*, — (*the day of the week and month on which the rule is made; as, “Saturday, 6th November.”*) Upon reading the affidavit of *I. K.* and the declaration thereunto annexed; It is ordered, that unless *C. D.* tenant in possession of the tenements in question, or some other person concerned in the title thereof, on — next after —, (*four days after granting the rule, in town causes; or, in country causes, four days after the end of the term;*) shall appear by an attorney of this court, who shall then forthwith receive a declara-

tion, and plead thereto the general issue, and consent to the common rule for confessing lease entry and ouster, upon the trial to be had, judgment be entered against the casual ejector : And in the mean time, proceedings are to stay.

On the motion of Serjeant *Blossett*, for the plaintiff. By the Court.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 47.)

L. M. of — in the county of —, maketh oath and saith, that he did, on the — day of — 18—, deliver to *C. D.* of —, the tenant in possession of the premises sought to be recovered in this action, a true copy of the notice hereunto annexed.

Affidavit of service of notice, for determining tenancy, on stat. 1 Geo. IV. c. 87. § 1.

E. F.

Prac. 1221, 2.

Sworn, &c. (175.)

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 48.)

A. B. of —, the lessor of the plaintiff above named, and *E. F.* of —, the attorney for the said lessor of the plaintiff, severally make oath and say ; and first, this deponent *A. B.* for himself saith, that by an indenture of lease, (*or*, “ agreement in writing,”) bearing date, (&c.) and made between this deponent of the one part, and *C. D.* of the other part, he this deponent, for the considerations therein mentioned, did demise (*or*, “ agree to let”) to the said *C. D.* a certain dwelling house (*or*, “ farm lands and premises”) with the appurtenances, situate in the parish of — in the county of —, being the tenements and premises with the appurtenances, for the recovery of which this ejectment is brought ; to hold the same to the said *C. D.* his executors, (&c.) from the — day of — then last ; (*or*, “ next,”) for the term of — years, (*or* “ from year to year,” &c. according to the fact ;) and that the said *C. D.* did execute and deliver to this deponent the said lease, (*or*, “ a counterpart of the said lease,” *or*, “ duplicate of the said agreement,”) which is now in the possession of this deponent, and ready to be produced to this honourable court. And this deponent *E. F.* for himself saith, that he was present, and did see the said *C. D.* duly execute the said lease, (*or*, “ agreement,” *or*, “ counterpart of the said lease,” *or*, “ duplicate of the said agreement ;”) and that the name *C. D.* thereunto subscribed, as the party executing the same, is of the proper handwriting of the said *C. D.* ; and that the name *E. F.* set and subscribed thereto, as a witness attesting the execution thereof, is of the proper handwriting of this deponent : And this deponent *A. B.* further saith, that the premises demised by the said lease, (*or*, “ agreement,”) and for the recovery of which this ejectment is brought, were actually enjoyed under such lease, (*or*, “ agreement ;”) and that the term and interest of the said *C. D.* in the said premises expired (*or*, in the case of a tenancy from year to year, “ that the interest of the said *C. D.* in the said premises was determined, by a regular notice to quit,”) on the — day of — last : And this deponent *A. B.* further saith, that he this deponent did, on the — day of — last, being after the expiration of the said term and interest of the said *C. D.* in the said premises, (*or*, “ after the interest of the said *C. D.* in the said premises had been so determined,”)

Affidavit of execution of lease, &c. on same statute.

Prac. 1221, 2, 3.

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personally serve upon the said *C. D.* a true copy of the paper writing hereunto annexed, and signed by this deponent, whereby this deponent demanded of the said *C. D.* the possession of the said premises, (or, "did leave a true copy, &c. (*as above*,) at the dwelling house, or, usual place of abode, of the said *C. D.*") according to the form of the statute in such case made and provided; but that the said *C. D.* refused to deliver up the possession thereof to him this deponent.

A. B.

Sworn, &c. (175.)

E. F.

(§ 49.)
Instructions for
counsel to
move for rule
nisi, on same
statute.

To move for rule, for the tenant *C. D.* to shew cause, why the said *C. D.* upon being admitted defendant, besides entering into the common rule, and giving the common undertaking, should not undertake, in case a verdict shall pass for the plaintiff, to give the plaintiff a judgment, to be entered up against the real defendant, of the term next preceeding the time of trial; and also why he should not enter into a recognizance, by himself and two sufficient sureties, in a reasonable sum, conditioned to pay the costs and damages, which shall be recovered by the plaintiff in the action.

(§ 50.)
Rule *nisi*, on
same statute,
in K. B.

Prac. 489.
1223.

— on (or, next after) —, &c. (175.)

Doc. on the demise of *A. B.* } Upon reading the affidavit of *I. K.*
Roc. } (§ 31.) and the declaration in ejectment
and notices thereunder written, thereto annexed; the affidavit of *L. M.*
(§ 47.) and the notice thereto annexed; and the affidavit of *A. B.* and
E. F. and the paper writing thereto annexed; It is ordered, that *C. D.*
tenant in possession of the premises in question, upon notice of this rule
to be given to him or his attorney, or left for him with some person re-
siding at his dwelling house, shall, upon —, shew cause, why, upon
being admitted defendant instead of the casual ejector, besides entering
into the common rule, and giving the common undertaking, he should
not undertake, in case a verdict shall pass for the plaintiff, to give the
plaintiff judgment, to be entered up against him the said *C. D.* of the
term next preceeding the time of trial; and why he should not enter into
a recognizance, by himself and two sufficient sureties, in a reasonable
sum, to be fixed by the court, and within such time as the court shall di-
rect, conditioned to pay the costs and damages which shall be recovered by
the plaintiff; or why, in default thereof, judgment should not be entered
up for the plaintiff, pursuant to the statute of the first *George IV.* Chap.
87. Upon the motion of Mr. *Frederick Moysey*. By the Court.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 51.)
Affidavit of
service of rule
nisi.

Prac. 1223.

I. K. of — maketh oath and saith, that he this deponent did, on the
— day of — instant, (or, "last,") personally serve *C. D.* tenant in
possession of the premises in the declaration of ejectment in this cause
mentioned, with a true copy of the rule hereunto annexed; (or, "did serve
C. D. &c. (*as above*) by leaving the same for him, with the servant of the
said *C. D.* then residing at the dwelling house of him the said *C. D.* situ-
ate at — in the county of —.")

Sworn, &c. (175.)

I. K.

— on (*or, next after*) —, &c. (175.)

Doe, on the demise of *A. B.* } Upon reading the rule made in this
Roe. } cause, on — in this term, the affidavit
of *I. K.* and no cause being shewn to the contrary; It is ordered, that
C. D. tenant in possession of the premises in question, upon being ad-
mitted defendant instead of the casual ejector, besides entering into the
common rule, and giving the common undertaking, do undertake, in case
a verdict shall pass for the plaintiff, to give the plaintiff a judgment, to
be entered up against him the said *C. D.* of the term next preceding the
time of trial; and also that he do, within — days next ensuing, enter
into a recognizance, by himself and two sufficient sureties, in the sum of
—*l.* conditioned to pay the costs and damages which shall be recovered
by the plaintiff; and that, in default thereof, judgment be entered for the
plaintiff, pursuant to the statute of the first *George IV.* Chap. 87. Up-
on the motion of Mr. *Frederick Moysey*. By the Court.

(§ 52.)
Rule absolute,
on same statute,
in *K. B.*
Prac. 1223.

In the Common Pleas, &c. (628.)

Upon reading the affidavit of *I. K.* &c. (*as in* § 50.) and upon hearing
counsel for the plaintiff; It is ordered, that *C. D.* one of the above-named
tenants in possession of parcel of the tenements and premises in the said
declaration mentioned, upon notice of this rule to be given to him or his
attorney, &c. (*as in* § 50.) shall shew cause to this court, on — next,
why the said *C. D.* upon being admitted defendant, besides entering into
the common rule, and giving the common undertaking, should not under-
take, in case a verdict shall pass for the plaintiff, to give the plaintiff a
judgment, to be entered up against the real defendants, of the term next
preceding the time of trial; and also why he should not enter into a re-
cognizance, by himself and two sufficient sureties, in a reasonable sum,
conditioned to pay the costs and damages which shall be recovered by the
plaintiff in the action, pursuant to the act of parliament in that case
lately made and provided. By the Court.

(§ 52. a.)
Rule nisi on
tenant of part of
the premises, in
C. P.
Prac. 1223.

On the motion of Serjeant *E. Lawes*, for the plaintiff.

In the Common Pleas, &c. (628.)

Upon reading the rule made in this cause, on — the — day of
— in this present — term, (*or, in* — term last,) and also the af-
fidavit of *I. K.* of the due service of the said rule on *C. D.* one of the
tenants in possession of parcel of the tenements and premises in the de-
claration of ejectment in this cause mentioned, and upon hearing counsel
for the plaintiff; It is ordered, that the said *C. D.* upon being admitted
defendant, besides entering into the common rule, and giving the common
undertaking, shall undertake, &c. (*as in last.*) And it is further or-
dered, that the said *C. D.* do peremptorily, within the space of — days
from this present day, (*or, "upon the — day of next — term,"*)
give such undertaking, and find such bail, with such conditions, and in
such manner, as are herein above specified in that behalf: And it is also
further ordered, that the said *C. D.* upon notice of this rule to be given
to him, shall shew cause to this court, on — the — day of — next,

(§ 53.)
Rule absolute
thereon.
Prac. 1223.

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in this same term, (or, "upon the — day of next — term,") why, in case he shall neglect or refuse to give such undertaking, and to find such bail, with such conditions, and in such manner as above specified, an absolute rule should not be made, for entering up judgment for the plaintiff, pursuant also to the said act of parliament in that case made and provided. By the Court.

On the motion of Serjeant *E. Lawes*, for the plaintiff.

In the Common Pleas.

John Doe, on the demise, &c. (623.)

I. K. of —, maketh oath and saith, that he this deponent did, on the — day of — instant, (or, last,) personally serve, &c. (as in § 51. to the end.) And this deponent further saith, that the said *C. D.* hath not as yet undertaken, as required by the said rule, nor entered into the recognizance mentioned therein. *I. K.*

Sworn, &c. (175.)

In the Common Pleas, &c. (628.)

Upon reading a rule made in this cause, on — the — day of —, in this present term, and also the affidavit of *I. K.* of the due service of the said rule, and no cause being shewn to the contrary; It is ordered, that judgment be entered up for the plaintiff, against the casual ejector, pursuant to the act of parliament in that case made and provided, for such part and parcel of the tenements and premises in the declaration of ejectment in this cause mentioned, as are in the possession of the said *C. D.* one of the tenants in possession of part and parcel of the tenements and premises in the said declaration mentioned. By the Court.

On the motion of Serjeant *E. Lawes*, for the plaintiff.

As yet of — term, (the term of which the judgment is signed,) in the — year of the reign of king *George the Fourth.*
Witness *Charles Lord Tenterden.*

— (to wit.) *John Doe*, on the demise of *A. B.* puts in his place *I. K.* his attorney, against *Richard Roe*, of a plea of trespass and ejectment of farm.

— (to wit.) The said *Richard Roe* in person, at the suit of the said *John Doe*, in the plea aforesaid.

— (to wit.) *Richard Roe* was attached to answer *John Doe*, &c. (copy declaration to the end, omitting the notice, and proceed on a new line as follows:)

And the said *Richard Roe*, in his proper person, comes and defends the force and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *John Doe*; whereby the said *John Doe* remains therein undefended against the said *Richard Roe*: Therefore it is considered, that the said *John Doe* recover against the said *Richard Roe*, his said term yet to come of and in the tenements aforesaid with the appurtenances, and also his damages sustained by reason of the trespass and ejectment aforesaid: And hereupon the said *John Doe* freely here in court remits to the said *Richard Roe*, all such damages, costs and charges,

(§ 54.)
Affidavit of service thereof, and non-compliance with the rule.

Prac. 1223.

(§ 54. a.)
Rule thereon, for judgment against the casual ejector.

Prac. 1223.

(§ 55.)
Judgment for the plaintiff by *nil dicil*, by original, in *K. B.* with a *remittitur damna*.

Prac. 1224.
1230.

Judgment signed, &c. (186.)

as might or ought to be adjudged to him the said *John Doe*, by reason of the trespass and ejectment aforesaid: Therefore let the said *Richard Roe* be acquitted of those damages, costs and charges, &c. And hereupon the said *John Doe* prays the writ of the said lord the king, to be directed to the sheriff of the county aforesaid, to cause him to have possession of his said term, yet to come of and in the tenements aforesaid with the appurtenances; and it is granted to him, returnable before the said lord the king, on —, (*a general return day*,) wheresoever, &c.

(*Entry of warrants of attorney, as in last.*)

— (to wit.) Be it remembered, that in — term last past, before our lord the king at *Westminster*, came *John Doe*, by *I. K.* his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *Richard Roe*, being in the custody of the marshal of the Marshalsea of our said lord the king before the king himself, of a plea of trespass and ejectment of farm; and there are pledges for the prosecution thereof, to wit, *John Den* and *Richard Fen*; which said bill follows in these words, that is to say: — (to wit.) *John Doe* complains of *Richard Roe*, being in the custody, &c. (*here copy the declaration to the end, omitting the pledges and notice, and then proceed, on a new line, as follows:*)

And now at this day, that is to say, on — next after —, in this same term, until which day the said *Richard Roe* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *John Doe*, by his attorney aforesaid, as the said *Richard Roe* in his proper person; and the said *Richard Roe* defends the force and injury, when, &c. and says nothing in bar or preclusion, &c. (*as before, making the writ of possession returnable on a day certain.*)

— (to wit.) *Richard Roe* was attached to answer *John Doe*, &c. (*copy the declaration to the end, omitting the notice, and then proceed as in the King's Bench by original, ante, p. 632. to the end of the judgment, making the writ of possession "returnable here," on a particular return day.*)

Pleas, &c. (*as before, p. 71.*)

(*After copying the declaration, as before, p. 623. adding the pledges, but omitting the notice, proceed on a new line as follows:*)

And the said *Richard Roe*, in his proper person, comes and defends the force and injury, when, &c. and the said *John Doe* prays that the said *Richard Roe* may answer him in the premises; and upon this the said *Richard Roe* says nothing in bar or preclusion, &c. (*as before, p. 632. making the writ "returnable here," on a general return day.*)

(§ 56.)

The like, by bill, of a different term, with an imparlance, in K. B.

Prac. 1224.
1230.

(§ 57.)

The like, in C. P.

Prac. 1224.
1230.

(§ 58.)

The like, in the Exchequer.

Prac. 1230.

(§ 59.)
Warrant of at-
torney, to con-
fess judgment,
in ejectment.
Prac. 1224.

To *E. F. (&c.)* Gentlemen, attornies of his majesty's court of King's Bench (or, "Common Pleas") at *Westminster*, jointly and severally, or to any other attorney of the same court: (or in the *Exchequer*, "To *E. F. &c. (naming the four attornies of the court,)* attornies of his majesty's court of *Exchequer* at *Westminster*, jointly and severally.")

These are to desire and authorize you, the attornies above named, or any one of you, or any other attorney of the court of King's Bench (or, "Common Pleas") aforesaid, to appear for me *C. D.* of —, in the said court, as of this present — term, or of any other subsequent term, and then and there to receive a declaration for me, in an action of trespass and ejectment of firm, at the suit of *John Doe*, on the demise of *A. B.* for — messuages, &c. (618.) with the appurtenances, situate, &c. (*id.*) which the said *A. B.* on, &c. (*day of demise,*) had demised to the said *John Doe*, for the term of — years, from, &c. (*commencement of demise,*) and thereupon to confess the same action, or else to suffer judgment, by *nil dicit* or otherwise, to pass against me in the same action, and to be thereupon forthwith entered up against me of record in the said court, for the recovery of the said term yet to come of and in the said tenements with the appurtenances, and also for the recovery of — *l.* damages, besides costs of suit: And I the said *C. D.* do hereby further authorize, &c. (*as before, p. 182.*)

(§ 60.)
Confession of
the action, in
ejectment.
Prac. 1224.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I confess this action, and that the said *John Doe* is entitled to recover his term yet to come of and in — messuages, &c. (618.) with the appurtenances, situate, &c. (*id.*) being parcel of the tenements mentioned in the declaration in this cause, and also that the said *John Doe* hath sustained damages, by reason of the trespass and ejectment complained of, to the sum of — *l.* besides his costs of suit, to be taxed by the master, (*in the King's Bench, or Exchequer; or, "by one of the prothonotaries," in the Common Pleas;*) but no judgment is to be entered up, or execution issued, until the — day of — next, in default of my then delivering up the possession of the said messuages, &c. (*as above,*) to the said *A. B.* and paying him the said sum of — *l.* together with the said costs: And I do hereby agree, not to bring any writ of error, &c. (*as before, p. 185.*)

(§ 61.)
Judgment for
the plaintiff, by
cognovit actionem, relicta ve-
rificatione, after
issue joined,
with a *remittitur*
damna, by ori-
ginal.

(*Term, and warrants of attorney, in K. B. as before, p. 632.*)

— (to wit.) *C. D.* was attached to answer *John Doe*, &c. (*copy the issue, to the end of the award of the venire facias, and proceed as follows:*) At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas, or Exchequer*, "At which day come here,") the parties aforesaid, by their attornies aforesaid; and hereupon the said *C. D.* relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him; and he confesses and admits that the said *John Doe* hath sustained damages, by reason of the said trespass and ejectment, to the sum of

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—, besides his costs and charges by him about his suit in this behalf expended: And hereupon the said *John Doe* freely here in court remits to the said *C. D.* the residue of the damages in the said declaration mentioned; and he prays judgment, and his term yet to come of and in the tenements aforesaid with the appurtenances, together with his said damages so confessed, and his costs and charges aforesaid, to be adjudged to him, &c. Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the tenements aforesaid with the appurtenances, together with the damages aforesaid, to the said sum of —, in form aforesaid confessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to —*l.* And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances, and it is granted to him, returnable before our said lord the king, on —, wheresoever, &c. (or, in the *Common Pleas*, or *Exchequer*, “returnable here, on —, &c.”)

Judgment
signed, &c.
(186.)

(*To the end of the issue, and then as follows:*) At which day, before our said lord the king at *Westminster*, come (or, in the *Common Pleas*, or *Exchequer*, “At which day come here,”) the parties aforesaid, by their attorneys aforesaid; and hereupon the said *C. D.* as to —, parcel of the tenements in the said declaration mentioned, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And upon this the said *John Doe* says that he will not further prosecute his suit against the said *C. D.* for the trespass and ejectment in the residue of the tenements aforesaid; and he prays judgment, and his term yet to come of and in the said — with the appurtenances, parcel, &c. together with his damages costs and charges by him in this behalf sustained: Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said — with the appurtenances, parcel, &c. and also —*l.* for his said damages costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent, and also with the assent of the said *C. D.* And let the said *C. D.* be acquitted of the said trespass and ejectment, in the residue of the tenements aforesaid, and go thereof without day, &c. And the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the said — with the appurtenances, parcel, &c. and it is granted to him, returnable before our said lord the king, on —, wheresoever, &c. (or, in the *Common Pleas*, or *Exchequer*, “returnable here, on —, &c.”)

(§ 62.)
The like, for
the plaintiff, as
to part of the
premises, and
for the defend-
ant, on a *nolle
prosequi*, as to
the residue.

Judgment
signed, &c.
(186.)

(§ 63.)

The like, as to an undivided part of the premises in one count, with a *remittitur damna*, and *nolle prosequi*, as to the residue.

As yet of — term, &c. (632.)

— (to wit.) *C. D.* was attached to answer *John Doe*, of a plea, &c. (*copy the issue, to the end of the award of the venire facias, and proceed as follows:*) At which day, before our said lord the king at Westminster, come, (or, in the Common Pleas, or Exchequer, “At which day come here,”) the parties aforesaid, by their attornies aforesaid; and hereupon the said *C. D.* relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment in the — count of the said declaration mentioned, as to one undivided — part of the tenements in that count also mentioned, and therein laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him; and he confesses and admits that the said *John Doe* hath sustained damages, by reason of the said last-mentioned trespass and ejectment, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended: And hereupon the said *John Doe* freely here in court remits to the said *C. D.* the residue of the damages in the said declaration mentioned, and says that he will not further prosecute his suit against the said *C. D.* as to the residue of the tenements last aforesaid, or the said other tenements in the said declaration mentioned; and he prays judgment, and his term yet to come of and in the said — part of the said tenements with the appurtenances, in the said — count of the said declaration mentioned, together with his said damages so confessed, and his costs and charges aforesaid, to be adjudged to him, &c. Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said —, part of the tenements last aforesaid with the appurtenances, together with his damages aforesaid, to the said sum of —*l.* in form aforesaid acknowledged, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to —*l.*: and let the said *C. D.* be acquitted of the supposed trespasses and ejectments in the said declaration mentioned, as to the residue of the tenements last aforesaid, and also as to the said other tenements in the said declaration mentioned, and go thereof without day, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the said —, part of the said tenements in the said — count of the said declaration mentioned, with the appurtenances; and it is granted to him, returnable before our said lord the king on —, wheresoever, &c. (or, in the Common Pleas, or Exchequer, “returnable here, on —,” &c.)

Judgment signed, &c. (186.)

— to wit. *Doe*, on the demise of *A. B.* against *Roe*, for — messuages, &c. (as in declaration,) in the parish of — in the said county: (or, if there be several demises, say, “*Doe*, on the demise of *A. B.* for — messuages, &c. (as in first demise,) in the parish of — in the said county, and also on the demise of *E. F.* for — other messuages, &c. (as in second demise,) in the parish of — in the said county, against *Roe* ;” and, if the tenant appear for part only, add, “being part of the premises mentioned in the declaration.”)

It is ordered, by the consent of the attornies for both parties, that *C. D.* be made defendant, in the stead of the now defendant *Roe*, and do forthwith appear, at the suit of the plain-

(§ 64.)
Consent of attornies, for tenant to be admitted to defend, &c. in *K. B.* before rule of *M. 1 Geo. IV.*

Prac. 490.
1225, 6.

tiff, and (if the ejectment be by bill, “file common bail, and”) receive a declaration in an action of trespass and ejectment, for the premises in question, and forthwith plead thereto not guilty; and upon the trial of the issue, confess lease entry and ouster, and insist upon the title only; otherwise let judgment be entered for the plaintiff against the now defendant *Roe*, by default: And if, upon the trial of the said issue, the said *C. D.* shall not confess lease entry and ouster, whereby the plaintiff shall not be able further to prosecute his writ (or “bill”) against the said *C. D.* then no costs shall be allowed for not further prosecuting the same, but the said *C. D.* shall pay costs to the plaintiff, in that case to be taxed: And it is further ordered, that if, upon the trial of the said issue, a verdict shall be given for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said writ, (or “bill,”) for any other cause than for not confessing lease entry and ouster, then the lessor of the plaintiff shall pay to the said *C. D.* costs, in that case to be adjudged.

I. K. attorney for the plaintiff.

L. M. attorney for the defendant.

It is ordered, by the consent of the attornies for both parties, that *C. D.* be made defendant, in the stead of the now defendant *Roe*, and do forthwith appear, at the suit of the plaintiff, and (if the ejectment be by bill, “file common bail, and”) receive a declaration, in an action of trespass and ejectment, for the premises in question; (or, if the tenant be in possession of part only, “for part of the premises in question;”) which premises (or, “which part of the premises,”) he the said *C. D.* hereby admits to be or consist of — messuages, &c. (as in the declaration, if for the whole of the premises; or, if for part only, specifying particularly of what it consists;) for which he intends, as tenant, (or, “landlord,”) to defend this action of trespass and ejectment; And it is further ordered, by the like consent, that the said *C. D.* do forthwith plead not guilty to the said declaration; and upon the trial of the issue, confess lease entry and ouster, and that he (or, in case he defend as landlord, “that his tenant”) was, at the time of the service of the said declaration, in possession of the premises (or, “part of the premises”) hereinbefore mentioned and specified, and insist upon the title only; otherwise let judgment be entered for the plaintiff, against the now defendant *Roe*, by default: And if, upon the trial of the said issue, the said *C. D.* shall not confess lease entry and ouster, and such possession as aforesaid, whereby the plaintiff shall not be able further to prosecute his writ (or, bill)

(§ 65.)
The like, since same rule.

Prac. 490.
1225, 6.

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against the said *C. D.* then no costs shall be allowed, for not further prosecuting the same ; but the said *C. D.* shall pay costs to the plaintiff in that case, to be taxed by the master : And it is further ordered, that if, upon the trial of the said issue, a verdict shall be given for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said writ, (or, bill,) for any other cause than for not confessing lease entry and ouster, and such possession as aforesaid, then the lessor of the plaintiff shall pay to the said *C. D.* costs, in that case to be adjudged.

I. K. attorney for the plaintiff.

L. M. attorney for the defendant.

(§ 66.)
Consent rule
thereon.

Prac. 490.
1227.

(§ 67.)
The like, in
C. P. before
rule of *H. 1*
& 2 *Geo. IV.*

Prac. 490.
1225.

In drawing up the rule, on the above consent, the clerk of the rules prefixes the day of making it ; and instead of the attorneys' names at the end, adds, "By the Court."

In the Common Pleas, &c. (628.)

— to wit. *Doe*, on the demise of *A. B.* against *Roe*, } It is ordered, by
for — messuages, &c. (as in § 64.) } consent of *I. K.* at-

torney for the plaintiff, and *L. M.* attorney for *C. D.* who claims title to the tenements in question, that the said *C. D.* shall be admitted defendant ; and that the said *C. D.* shall immediately appear by his said attorney, who shall receive a declaration, and plead thereto the general issue, this term ; and that at the trial to be had thereon, the said *C. D.* shall appear in his proper person, or by his counsel or attorney, and confess lease entry and ouster, for so much of the tenements specified in the plaintiff's declaration, as are in the possession of the said defendant, or his tenant, or any person claiming by or under his title ; or that in default thereof, judgment shall be thereupon entered against the defendant *Richard Roe*, the casual ejector ; but proceedings shall be stayed against him, until default shall be made in any of the premises : And by the like consent, it is further ordered, that if by reason of any such default, the plaintiff shall happen to be nonsuited upon the trial, the said *C. D.* shall take no advantage thereof, but shall thereupon pay to the plaintiff costs, to be taxed by the prothonotaries : And it is further ordered, that the lessor of the plaintiff shall be liable to the payment of costs to the said *C. D.* by the court here to be in any manner allowed or adjudged. By the Court.

In the Common Pleas, &c. (628.)

(§ 68.)
The like, since
same rule.

Prac. 490.
1225.

It is ordered, by consent of *I. K.* attorney for the plaintiff, and *L. M.* attorney for *C. D.* who claims title to the premises in question, (or, if the tenant be in possession of part only, "to part of the premises in question,") which premises (or, "which part of the premises") he the said *C. D.* hereby admits to be or consist of — messuages, &c. (as in the declaration, if for the whole of the premises ; or, if for part only, specifying particularly of what it consists ;) for which he intends, as tenant, (or, "landlord,") to defend this action of trespass and ejectment, that he may be admitted defendant ; and that the said defendant shall immediately appear by his said attorney, who shall receive a declaration, and plead thereto the general issue this term ; and at the trial thereupon to be had, the said defendant shall appear in his own proper person, or by his coun-

sel or attorney, and confess lease entry and ouster, and that he (*or, in case he defend as landlord, "that his tenant"*) was, at the time of the service of the declaration, in possession of the premises (*or, part of the premises*) hereinbefore mentioned and specified, and insist upon the title only; otherwise let judgment be entered for the plaintiff, against the now defendant, by default: And, by the like consent, it is further ordered, that if, upon the trial of the said issue, the said *C. D.* shall not confess lease entry and ouster, and such possession as aforesaid, whereby the plaintiff shall not be able further to prosecute this action against the said *C. D.* then no costs shall be allowed for not further prosecuting the same; but the said *C. D.* shall pay costs to the plaintiff's lessor in that case, to be taxed by the prothonotary: And it is further ordered, by the like consent, that if upon the trial of the said issue, a verdict shall be found for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said action, for any other cause than for not confessing lease entry and ouster, and such possession as aforesaid, then the lessor of the said plaintiff shall pay to the said *C. D.* his costs, in that case to be adjudged.

By the Court.

If the ejectment be brought by *landlord* against *tenant*, for holding over, on stat. 1 Geo. IV. c. 87. the following clause should be added to the consent rule: "And lastly it is ordered, by the like consent, that in case a verdict shall pass for the plaintiff, on the trial of the said issue, judgment shall be entered up thereon against the said *C. D.* of the term next preceding the time of trial:" Or, (*if the action be brought in Wales, or the counties palatine,*) "of the session, assizes, or court day, (*as the case may be,*) at which the trial shall be had."

(§ 69.)
The like, by
landlord against
tenant, on stat.
1 Geo. IV. c.
87.
Prac. 1223.

In the Exchequer of Pleas.

— term, &c. (176.)

John Doe on the demise of *A. B.* against *C. D.* tenant, (*or, "landlord."*)

(§ 70.)
The like, in the
Exchequer,
before rule of
E. 2 Geo. IV.

It is ordered by the court, by and with the consent of both parties, their counsel and attorneys, that the aforesaid defendant, upon the trial of the issue between the said parties, do confess lease entry and ouster, for such lands and tenements mentioned in the declaration, as are in the possession of the said defendant, (*or, if the ejectment be defended by the landlord, "of C. D. and E. F. tenants in possession, pursuant to an order of court for that purpose,"*) and insist upon the title only; otherwise that judgment be entered for the plaintiff, against his own casual ejector, by default.

By the Court.

Rose.

The consent rule, in the Exchequer of Pleas, since the rule of E. 2 Geo. IV. is similar to that in the King's Bench, for which *vide ante*, pp. 637, 8.

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

C. D. of — maketh oath and saith, that this ejectment is brought for the recovery of — messuages, &c. (*as in the declaration in ejectment,*) in the possession of this deponent and his undertenants; and that the same may involve a question between tenants in common, (*or, "joint*

(§ 71.)
Affidavit, in
support of rule,
to authorize
tenant to con-
fess lease and

entry only, in
K. B.

Prac. 490.
1227.

tenants,") as he this deponent verily believes. And this deponent further saith, that no actual ouster hath been committed by him this deponent, or by any of his undertenants, in possession of the said premises, as he this deponent also verily believes. *C. D.*

Sworn, &c. (175.)

(§ 72.)

Rule, in K. B.
to authorize
tenant to con-
fess lease and
entry only.

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1227.

— on (or, next after) —, &c. (175.)

Doe, on the demise of *A. B.* } Upon reading the rule made on, (&c.)
Roe. } and upon hearing Mr. *William Paley*, of
counsel for the lessor of the plaintiff, and Mr. *Thomas Coltman*, of coun-
sel for the tenant; It is ordered, that the defendant enter into a rule for
confessing lease and entry, and also for confessing ouster of the nominal
plaintiff; in case an actual ouster of the plaintiff's lessor, by the defend-
ant, shall be proved at the trial, but not otherwise.

By the Court.

(§ 73.)
Consent rule
thereon.

Prac. 1227.

Doe, } It is ordered, by the consent of the attornies for both parties,
Roe. } that *C. D.* be made defendant, &c. (*as before*, p. 637. *to the words*
"not guilty to the said declaration;") and upon the trial of the issue,
confess lease and entry, and also ouster of the nominal plaintiff, in case
an actual ouster of the plaintiff's lessor, by the defendant, shall be proved
at the trial, but not otherwise; and that he (*or, in case he defend as*
landlord, "that his tenant") was, at the time of the service of the said
declaration, in possession of the premises (*or*, "part of the premises")
hereinbefore mentioned and specified, and insist upon the title, and such
actual ouster, only; otherwise let judgment be entered, &c. (637.) And
if, upon the trial of the said issue, the said *C. D.* shall not confess lease
and entry, and also ouster, upon the condition aforesaid, and such posses-
sion as aforesaid, whereby, &c. (637, 8.): And it is further ordered, that if,
upon the trial of the said issue, a verdict shall be given for the said *C. D.*
or it shall happen that the plaintiff shall not further prosecute his said
writ, (*or*, "bill,") for any other cause than for not confessing lease and
entry, and also ouster, subject to the condition aforesaid, and such posses-
sion as aforesaid, then the lessor of the plaintiff shall pay to the said *C. D.*
costs, in that case to be adjudged.

By the Court.

(§ 74.)
The like, an-
other way.

Prac. 1227.

Doe, } It is ordered, by the consent of the attornies for both parties,
Roe. } that *C. D.* be made defendant, &c. (*as before*, p. 637. *to the words*
"not guilty to the said declaration;") and upon the trial of the issue,
confess lease entry and ouster, in case an actual ouster of the plaintiff's
lessors, or some or one of them, be not necessary to support the plaintiff's
title to recover; and that he (*or, in case he defend as landlord*, "that his
tenant") was, at the time of the service of the said declaration, in posses-
sion of the premises (*or*, "part of the premises") herein before mentioned
and specified; but in case such actual ouster shall be necessary to support
the plaintiff's title to recover, then to confess lease and entry, and (in
case such actual ouster shall be proved, and not otherwise,) ouster of the
nominal plaintiff, and such possession as aforesaid, and insist upon the
title, and such actual ouster, if necessary, only; otherwise let judgment
be entered, &c. (*as in last.*)

Doe, on the demise of *A. B.* } It is ordered, that *E. F.* landlord of the
Roe. } tenant in possession of the premises in
question (or, part of the premises) in this cause, shall be joined and made
defendant with the said tenant, if he shall appear: And the said *E. F.*
desiring, if the said tenant shall not appear, that he may appear by him-
self, and consenting that in such case he will enter into the common rule
to confess lease entry ouster and possession, in such manner as the said
tenant ought, in case he had appeared; (or, if the rule be special, to con-
fess lease and entry only, say, "to confess lease and entry only, without
ouster, unless an actual ouster of the lessor of the plaintiff, by the said
C. D. or those claiming under him, be proved at the trial;") leave is
given to the said *E. F.* pursuant to the statute and rule of court in that
case made and provided, if the said tenant shall not appear, to appear by
himself, and, upon his entering into such common rule, to become defend-
ant, in the stead of the casual ejector, and to defend his title to the said
premises, (or, part of the premises,) without the said tenant: The plaintiff
nevertheless is at liberty to sign judgment against the casual ejector; but
execution thereon is stayed, until this court shall further order. Upon
the motion of Mr. *C. C. Pepys*. By the Court.
In the Common Pleas, &c. (628.)

(§ 75.)
Rule, in K. B.
for admitting
landlord to
defend, &c.
Prac. 490.
1229.

It is ordered, that *E. F.* landlord of the premises (or, "part of the
premises") in question, be joined and made defendant, together with
C. D. tenant in possession of the premises in question, in the common rule
by consent in ejectment, instead of the casual ejector, in case the said *C. D.*
shall appear, (or, if for part, "shall appear and defend his title as to
— messuages, &c. part of the premises in question only:") And it is
further ordered, that in case the said *C. D.* shall neglect to appear, the
said *E. F.* may appear by himself, and defend his title to the premises
(or, "to — messuages, &c. part of the premises") in question, pursuant
to the statute in that case made and provided; he hereby consenting to
enter into the like rule, that the said *C. D.* by the course of the court, in
case he had appeared, ought to have done: Nevertheless, the plaintiff
shall be at liberty to sign judgment against the casual ejector; but exe-
cution is hereby stayed, until this court shall make further order therein:
And by consent of counsel for the said *E. F.* it is further ordered, that
the said *E. F.* upon the trial to be had, shall admit himself to be in the
actual possession of the said premises.

(§ 76.)
The like, in
C. P. for the
whole, or part
of the premises.
Prac. 490.
1229, 30.

On the motion of Serjeant *E. Lawes*, }
for the said *E. F.* } By the Court.

It is ordered, that *E. F.* landlord of the premises in question, and who
is tenant in possession of part of the said premises, be joined and made
defendant, together with *C. D.* tenant in possession of the residue of the
said premises, in the common rule by consent in ejectment, instead of the
casual ejector, in case the said *C. D.* appear; and the said *E. F.* upon
the trial to be had, shall defend his title, as well to the premises in his
own possession, as to the premises in the possession of the said *C. D.*

(§ 77.)
The like, for
landlord of all,
being tenant of
part, with or
without the
other tenant, in
C. P.
Prac. 490.
1229, 30.

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And it is further ordered, that in case the said *C. D.* shall neglect to appear, the said *E. F.* may appear by himself, and defend his title, as well to the premises in his own possession, as to the premises in the possession of the said *C. D.* pursuant to the statute in that case made and provided; the said *E. F.* hereby consenting to enter into the like rule, that the said *C. D.* by the course of the court, in case he had appeared, ought to have done: Nevertheless, the plaintiff shall be at liberty to sign judgment against the casual ejector, as to the premises in the possession of the said *C. D.*; but execution thereon is hereby stayed, &c. (*as in last.*)

By the Court.

— (to wit.) Appearance for *C. D.* at the suit of *John Doe*, on the demise of *A. B.* G. H. defendant's attorney.

— 18—.

(§ 78.)

Præcipe for appearance, by original, in K. B.

(§ 79.)

Plea of not guilty.

Prac. 1227.

— term, &c. (618.)

C. D. } And the said *C. D.* by *L. M.* his attorney, comes and defends the force and injury, when, &c. and says that he is not guilty of the supposed trespass and ejectment, (*or, if several ousters are laid in the declaration, "of the supposed trespasses and ejectments,"*) above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And of this he the said *C. D.* puts himself upon the country, &c.

Doe, on the demise of *A. B.* } Upon hearing the attornies or agents on v. } both sides, I do order, that the defendant

C. D. } shall amend his plea and consent rule in this cause, by entitling them of a day in — term last, subsequent to the — day of —; and that the secondary shall draw up a consent rule accordingly; and that the lessor of the plaintiff be at liberty to entitle the issue and record, as of a day subsequent to the said — day of —; and that the lessor of the plaintiff be at liberty to lay the demise, on a day or days subsequent to the said — day of — instant. Dated the — day of — 18—.

(§ 80.)

Judge's order in C. P. to amend plea and consent rule, by entitling them of a particular day; and that the issue and record be entitled, and demise laid, accordingly.

Prac. 1206, 7.

(§ 81.)

Judge's order for particulars.

Prac. 1226.

C. D. } Upon hearing the attornies or agents on ats. } both sides, and by consent, I do order, that

Doe, on the demise of *A. B.* } the plaintiff do deliver to the defendant's attorney, the particulars of the premises for which this ejectment is brought; and in the mean time all further proceedings in this cause be stayed. Dated, &c. (*as in last.*)

In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

I do hereby give you notice, that this ejectment is brought for the recovery of — messuages, &c. (*describing the premises,*) with the appurtenances, situate in the parish of — in the county of —. Dated, &c.

(§ 82.)

Particulars of premises, for which the ejectment is brought.

Prac. 1231.

(*as above.*)

Your's, &c.

To Mr. *L. M.* defendant's attorney.

I. K. plaintiff's attorney.

(§ 83.)

The like, for which it is defended.

Prac. 1231.

I do hereby give you notice, that this ejectment is defended for — messuages, &c. (*as in last,*) with the appurtenances, situate in the parish

of — in the county of —, now in the possession of the above-named *C. D.* or his under-tenant. Dated, &c. (*as in § 80.*)

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Your's, &c.

To Mr. *I. K.* plaintiff's attorney. *I. M.* defendant's attorney.
In the King's Bench, &c. (623.) *John Doe*, on the demise, &c. (*id.*)

(§ 84.)

Particulars of
breaches, for
which term is
forfeited.

Prac. 1231, 2.

This action is founded on an indenture of lease, bearing date, (&c.) and made between the above-named *A. B.* of the one part, and *C. D.* of the other part; whereby the said *A. B.* for the considerations therein mentioned, did demise to the said *C. D.* a certain messuage, &c. (*as in the indenture,*) being the premises for the recovery of which this ejectment is brought; to hold the same to the said *C. D.* his executors and administrators, from the — day of — then last, (*or, next,*) for the term of — years then next ensuing, at the yearly rent of — *l.* payable quarterly, &c. (*as in the lease;*) in which said indenture there is a covenant for the payment of the said rent, at the times, and in manner aforesaid; and also another covenant, that the said *C. D.* shall insure, &c. (*stating the covenant for insurance, as in the lease;*) with a proviso of re-entry, for non-payment of the said rent, and non-performance of the covenants contained in the said lease.

The breaches of covenant, by reason of which the lessor of the plaintiff will contend, at the trial of this cause, that the defendant has forfeited his term of and in the premises for the recovery of which this action is brought, are as follow:

First, the non-payment of the sum of — *l.* for — quarters rent, which became due and payable from the said *C. D.* to the said *A. B.* on the — day of — last.

Secondly, that the said *C. D.* hath not insured, &c. (*as in the covenant for insurance.*)

Yours, &c.

I. K. plaintiff's attorney,

To Mr. *L. M.* defendant's attorney, (*or, agent.*)

(*or, agent.*)

— 18—

— on, (*or, next after*) —, &c. (175.)

(§ 85.)

Rule for staying
proceedings, on
payment of
rent, &c. in
K. B.

Prac. 490.
1234.

Doe, on the demise of *A. B.* } Upon reading the affidavit of the defendant, it is ordered, upon the said defendant's forthwith bringing into court, the whole rent due and in arrear, and such sum to answer the costs as the master shall direct, that further proceedings in this cause be stayed: And it is referred to the master, to compute the said arrears of rent, and to tax the said costs; and upon the said defendant's paying the said lessor of the plaintiff, or, in case he shall refuse to accept the same, paying into court, what the said master shall find due and allow for the said rent and costs, that all further proceedings therein, as to the non-payment of the said rent, be stayed: But it is further ordered, if the said lessor of the plaintiff has any other title to the premises in question, than for the non-payment of the said rent, he is at liberty to proceed. Upon the motion of Mr. *John Campbell*.

By the Court.

(§ 86.)
The like, in
C. P.
Prac. 490.
1234.

It is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why, upon the defendant's bringing into this court, all the rent and arrears due to the lessor of the plaintiff, together with the plaintiff's costs in this action, it should not be referred to one of the prothonotaries, to settle and tax the sum due for such rent and arrears, and costs; and why, upon payment thereof, all further proceedings in this action should not be stayed: (*adding the following clause, in the rule absolute,* "But in default of the defendant's bringing the said rent and costs into court, within the time aforesaid, the said former rule of the — day of — be discharged.")

By the Court.

(§ 87.)
The like, on
payment of
mortgage
money, &c. in
C. P.
Prac. 490.
1235, 6.

Upon reading the affidavit of *G. H.* it is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why, upon the defendant's bringing into this court, the principal money and interest due to the lessor of the plaintiff upon his mortgage, and also such costs as have been expended in any suit or suits at law or equity upon such mortgage, his costs in this cause to be ascertained computed and taxed by one of the prothonotaries, the money so brought into this court should not be deemed and taken to be in full satisfaction and discharge of such mortgage; and upon payment thereof to the lessor of the plaintiff, why all proceedings in this action should not be stayed; and why the mortgaged premises, and the lessor of the plaintiff's estate and interest therein, should not be assigned and conveyed, at the costs and charges of the defendants, to such persons as they shall appoint; and why all deeds, evidences and writings, in the custody or power of the lessor of the plaintiff, relating to the title of such mortgaged premises, should not be delivered up to the defendants, or to such person or persons as they shall for that purpose nominate and appoint.

By the Court.

(§ 88.)
The like, till a
guardian be
appointed for
an infant lessor,
to answer costs,
in K. B.
Prac. 490.
1232.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M.* (&c.)
Roe. } it is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why further proceedings in this action should not be stayed, until a sufficient guardian be appointed for the lessor of the plaintiff, who will undertake to pay to the defendant, such costs as may happen to be adjudged to him; and that in the mean time, further proceedings be stayed. Upon the motion of Mr. *W. R. Rennalls*.

By the Court.

(§ 89.)
The like, in
C. P.
Prac. 490.

Upon reading the affidavit of *G. H.* it is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why the proceedings in this action should not be stayed, till some person, on behalf of the lessor of the plaintiff, give security for payment of the defendant's costs, in case of a nonsuit, or verdict for the defendant; the lessor of the plaintiff being an infant.

By the Court.

(§ 90.)
The like, till
security be
given for costs,
in K. B.
Prac. 490.
1232.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M.* and
Roe. } another, it is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why further proceedings in this action should not be stayed, until he shall have given such security for the costs in this cause, in case the plaintiff shall be nonsuited, or a verdict shall be given for the said defendant, as the master (*or*, prothono-

tary) shall approve of; and that in the mean time, further proceedings be stayed. Upon the motion of Mr. *Thomas Scott*. By the Court.

Upon reading the affidavit of the defendant, it is ordered, that the lessor of the plaintiff, upon notice, &c. (626.) shew cause, why all further proceedings in this action should not be stayed, until the costs taxed in a former action, brought in the court of King's Bench, on the demise of the lessor of the plaintiff, for the same premises, are paid: and in the mean time, and until this court shall otherwise order, that all further proceedings be stayed. By the Court.

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(§ 91.)
The like, in
C. P. until the
costs are paid
of a former ac-
tion in K. B.

Prac. 490.

In the King's Bench, (or, Common Pleas.)

— term, (*the term of the appearance and plea,*) in the —
year of the reign of king *George the Fourth*.

(§ 92.)
Issue, by origi-
nal, in K. B. or
C. P.

Prac. 1236.

— (to wit.) *C. D.* was attached to answer *John Doe, &c.* (*as in the declaration, to the end, substituting the name of the real defendant for that of the casual ejector, and omitting the notice; after which proceed, on a new line, as follows:*)

And the said *C. D.* by *L. M.* his attorney, comes and defends the force and injury, when, &c. and says that he is not guilty of the supposed trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And of this he the said *C. D.* puts himself upon the country; and the said *John Doe* doth so likewise. Therefore the sheriff is commanded, that he cause to come before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, (*or, in C. P.* “that he cause to come here, on —,”) twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. (*adding, in K. B. by original, “the same day is given to the parties aforesaid, &c.”*)

Therefore, as well to try the issue above joined between the parties aforesaid, as also, in case the said issue shall be found for the said *A. B.* to inquire of and assess the damages which the said *A. B.* hath sustained on occasion of the said trespass and ejectment, that is to say, for the mesne profits of the said tenements with the appurtenances, which shall have accrued from the day of the expiration (*or, determination*) of the said *C. D.*'s interest in the same, down to the time of giving the verdict in this action, or to some preceding day which shall be specially mentioned therein, according to the form of the statute in such case made and provided, the sheriff is commanded, that he cause to come, &c. (*as in last.*)

(§ 93.)
Award of re-
nere facias, tam
ad triundum
quam ad inqui-
rendum, on
stat. 1 Geo. IV.
c. 87. § 2.

Prac. 721, 2.
781. 1239.

The issue by *bill*, jury process, and record of *nisi prius* in *ejectment*, are the same as in other cases, except that the plea or action is described as “a plea of trespass and ejectment of farm.”

(§ 94.)
Issue by bill,
jury-process,
&c.

Prac. 1236.

— on (*or, next after*) —, &c. (175.)

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M.* gent.
Roe. } it is ordered, that the attornies on both
sides shall attend the master, and he shall examine the matter, and tax the defendant his costs, for that the lessor of the plaintiff has not proceeded to trial pursuant to his notice; which costs, when taxed, shall be

(§ 95.)
Rule for costs,
for not pro-
ceeding to trial
according to
notice, in K. B.
Prac. 490.

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paid by the said lessor of the plaintiff, if it shall appear to the master that costs ought to be paid. Upon the motion of Mr. T. J. Platt.

By the Court.

(§ 96.)
Postea, for the
plaintiff, on not
guilty.
Prac. 1239.

Afterwards, &c. (as before, p. 314. to the words "tried and sworn," and then as follows :) say upon their oath, that the said C. D. is guilty of the trespass and ejectment (or, "several trespasses and ejectments") within laid to his charge, in manner and form as the said John Doe hath within thereof complained against him ; and they assess the damages, &c. (as before, p. 322. § 31.)

(§ 97.)
The like, for
mesne profits,
&c. on stat. 1
Geo. IV. c. 87.
§ 2.
Prac. 1239.

(As in the last, to the end of the finding that defendant is guilty of the trespass and ejectment, &c. and then as follows :) And it appearing in evidence to the jurors aforesaid, that this action was brought by and at the suit of the said A. B. as landlord of the within-mentioned tenements with the appurtenances, against the said C. D. as his tenant thereof, under a lease (or, agreement) in writing, for the term of — years, (or, from year to year,) and that the attorney of the said C. D. hath been served with due notice of trial in the said action ; they assess the damages of the said E. F. on occasion of the said trespass and ejectment, according to the form of the statute in such case made and provided, that is to say, for the mesne profits of the said tenements with the appurtenances, from the — day of — 18—, being the day of the expiration (or, determination) of the said C. D.'s interest in the said tenements with the appurtenances, down to the time of giving their verdict in this action ; (or, "to the — day of — last, when the said C. D. quitted and delivered up the possession of the said tenements with the appurtenances, to the said A. B.") to —l. over and above the costs and charges of the said A. B. by him about his suit in this behalf expended, and for those costs and charges to 40s. Therefore, &c.

(§ 98.)
Postea, for
defendant.
Prac. 1239.

Say upon their oath, that the said C. D. is not guilty of the trespass and ejectment within laid to his charge, in manner and form as the said John Doe hath within complained against him : Therefore, &c.

(§ 99.)
The like, where
part is found
for the plaintiff,
and part for
the defendant.
Prac. 1239.

— as to —, parcel of the tenements within mentioned, say upon their oath, that the said C. D. is guilty of the trespass and ejectment within laid to his charge, in manner and form as the said A. B. hath within thereof complained against him ; and they assess the damages of the said A. B. on occasion of the committing thereof, &c. (322.) And as to the residue of the tenements within mentioned, the jurors aforesaid upon their oath aforesaid say, that the said C. D. is not guilty of the trespass and ejectment within laid to his charge, in manner and form, &c. (as in last.) Therefore, &c.

(§ 100.)
The like, on a
nonsuit, for not
confessing
lease entry and
ouster.
Prac. 1237, 8.

Afterwards, that is to say, on —, at —, before, (&c.) comes the within-named John Doe, by his attorney within mentioned, and the within-named C. D. although solemnly required, comes not, but makes default ; therefore let the jurors of the jury whereof mention is within made, be taken against him by his default ; and the jurors of that jury, being summoned, also come, and to speak the truth of the matters within con-

tained, being chosen tried and sworn, the said *C. D.* although solemnly called to appear, by himself or his counsel or attorney, to confess lease entry and ouster, doth not come, by himself or his counsel or attorney, nor doth he confess lease entry and ouster, but therein makes default; wherefore the said *John Doe* doth not further prosecute his writ (or, "bill") against the said *C. D.* Therefore, &c.

Afterwards, &c. (*as before*, pp. 314, 15.) come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within mentioned; and the within-named *E. F.* although solemnly called, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, being chosen tried and sworn, upon their oath say, that the said *C. D.* is guilty of the trespass and ejectment (or, "trespasses and ejectments") within laid to his charge, in manner and form as the said *John Doe* hath within thereof complained against him; and they assess the damages of the said *John Doe* against the said *C. D.* on occasion of the committing thereof, &c. (322.) And the said *C. D.* although solemnly called to appear, by himself or his counsel or attorney, to confess lease entry and ouster, doth not come, by himself or his counsel or attorney, nor doth he confess lease entry and ouster, but therein makes default: And, for that reason, the jurors aforesaid, upon their oath aforesaid say, that the said *E. F.* is not guilty of the trespass and ejectment (or, "trespasses and ejectments") within laid to his charge, in manner and form as the said *John Doe* hath within thereof complained against him. Therefore, &c.

Afterwards, that is to say, on the day and at the place within contained, &c. (*as in a common postea, to the finding of the jury, which varies according to the facts of the case; and, after stating the lease entry and ouster, as in the declaration, conclude as follows:*) But whether or not, upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, the said *C. D.* is guilty of the trespass and ejectment within specified, the jurors aforesaid are altogether ignorant; and thereupon they pray the advice of the court of our said lord the king before the king himself: And if, upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* is guilty of the trespass and ejectment aforesaid, then the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is guilty thereof, in manner and form as the said *John Doe* hath within thereof complained against him; and in that case, they assess the damages of the said *John Doe*, on occasion of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to —*s.* But if, upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* is not guilty of the trespass and ejectment aforesaid, then the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is

(§ 101.)
The like, on
verdict against
one defendant
who appeared,
and for another
who did not ap-
pear, and con-
fess lease, &c.
Prac. 1238.

(§ 102.)
Special verdict,
in ejectment.
Prac. 897.
1238, 9.

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not guilty thereof, in manner and form as he hath within in pleading alleged. And because, &c. (334.)

(§ 103.)

Judgment after
verdict, for the
plaintiff.

Prac. 1240, 41.

(*To the end of the postea, as in other cases, mutatis mutandis, and then as follows:*) Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the tenements aforesaid with the appurtenances, and his said damages to — *l.* by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to — *l.*; and let the said *C. D.* be taken, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances; and it is granted to him, returnable before our said lord the king, on —, wheresoever, &c. (*or, in the Common Pleas or Exchequer, "returnable here, on —," &c.*)

Capiatur.

(§ 104.)

The like, for
the plaintiff, as
to part of the
premises, and
for the defend-
ant, as to the
residue.

Prac. 1240, 41.

Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said —, parcel, &c. with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to — *l.*; and let the said *John Doe* be amerced for his false claim against the said *C. D.* as to the residue of the tenements in the said declaration mentioned, whereof the said *C. D.* is acquitted in form aforesaid, and the said *C. D.* go thereof without day, &c. And hereupon the said *John Doe* prays the writ, &c. (*as in the last.*)

(§ 105.)

The like, for
the plaintiff, as
to part of the
premises, and
nolle prosequi as
to the residue,
for which there
was no finding
by the jury;
with award of
habere facias
possessionem,
and return.

Prac. 1240, 41.

(*To the end of the postea, and then as follows:*) And hereupon the said *John Doe* freely here in court confesses, that he will not further prosecute his suit against the said *C. D.* as to the remaining three fifths of the tenements in the said declaration mentioned; therefore, as to the said three fifths of the tenements aforesaid, let the said *C. D.* be acquitted, and go thereof without day, &c.: And the said *John Doe* prays judgment, and his term yet to come of and in the said two fifths of the tenements aforesaid, whereof the said *C. D.* is convicted, together with his damages costs and charges aforesaid: Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said two fifths of the tenements aforesaid with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of

increase to the said *John Doe*, and with his assent ; which said damages costs and charges in the whole amount to — *l.* ; and let the said *C. D.* be taken, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, to cause him to have possession of his said term yet to come of and in the said two fifths of the tenements aforesaid with the appurtenances ; and it is granted to him, returnable before our said lord the king, on —, wheresoever, &c. (*or, in the Common Pleas or Exchequer*, “returnable here, on —,” &c.) At which day, before our said lord the king at *Westminster*, comes (*or, in the Common Pleas or Exchequer*, “At which day comes here,”) the said *John Doe*, by his attorney aforesaid ; and the sheriff, to wit, —, sheriff of the said county, now here returns, that by virtue of the said writ to him directed, he had, on the — day of — in the — year of the reign of our said lord the king, given full and peaceable possession unto the said *John Doe*, of the said two fifths of the tenements aforesaid with the appurtenances, in the said writ mentioned, as therein he was commanded.

Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term (*or, terms*) yet to come of and in the tenements aforesaid with the appurtenances, and his said damages, &c. (*as in p. 643. to “let the said C. D. be taken,” &c.*) And, for the cause aforesaid, it is also considered, that the said *John Doe* take nothing by his said writ (*or, bill*) against the said *E. F.* but that he and his pledges to prosecute be in mercy, &c ; and that the said *E. F.* do go thereof without day, &c. And hereupon the said *John Doe* prays the writ, &c. (*as in p. 648.*)

(*To the end of the postea, as before, pp. 647, 8. and then as follows :*)

And because the court of our said lord the king before the king himself now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king, until —, wheresoever our said lord the king shall then be in *England*, to hear the judgment of the said court thereupon ; for that the court of our said lord the king before the king himself now here, are not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come as well the said *John Doe*, as the said *C. D.* and *E. F.* by their respective attorneys aforesaid ; and hereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it seems to the said court here, that as to the tenements with the appurtenances, in the said declaration mentioned to be situate in the parish of — aforesaid, being parcel of the tenements in the said declaration mentioned, the said *C. D.* is guilty of the trespasses and ejectments above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him ; and that as to the residue of the tenements in the said declaration mentioned, the said *C. D.* is not guilty of the trespasses and ejectments above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him : And it further seems to the said court here, that

(§ 106.)
The like, on verdict against one defendant who appeared, and for another, who did not appear, and confess lease, &c.

Prac. 1238.

(§ 107.)
The like, on special verdict against two defendants, where each of them is found guilty as to part of the premises, and acquitted of the residue ; with a *remittitur damna*, and award of costs against the defendants severally.

Prac. 1240, 41.

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as to one undivided third part, (the whole in three equal parts to be divided,) of the said messuage and garden with the appurtenances, in the said declaration mentioned to be situate in the parish of — aforesaid, being other parcel of the tenements in the said declaration mentioned, the said *E. F.* is guilty of the trespasses and ejectments above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him; and that, as to two other undivided third parts, (the whole in three equal parts to be divided,) of the said messuage and garden with the appurtenances, parcel, &c. and also as to the residue of the tenements in the said declaration mentioned, the said *E. F.* is not guilty of the trespasses and ejectments above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And hereupon the said *John Doe* freely here in court remits to the said *C. D.* and *E. F.* the damages aforesaid, to —s. by the jurors aforesaid in form aforesaid assessed: and he prays judgment against the said *C. D.* for his terms yet to come of and in the said tenements with the appurtenances, parcel, &c. in the said declaration mentioned to be situate in the parish of — aforesaid; and against the said *E. F.* for his terms yet to come of and in the said undivided third part, (the whole in three equal parts to be divided,) of the said messuage and garden with the appurtenances, parcel, &c. in the said declaration mentioned to be situate in the parish of — aforesaid, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c. Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said terms yet to come of and in the said tenements with the appurtenances, parcel, &c. in the said declaration mentioned to be situate in the parish of — aforesaid; and let the said *John Doe* be amerced, for his false claim against the said *C. D.* as to the residue of the tenements in the said declaration mentioned, whereof the said *C. D.* is acquitted in form aforesaid, and the said *C. D.* go thereof without day, &c. And it is further considered by the said court here, that the said *John Doe* do recover against the said *E. F.* his said terms yet to come of and in the said undivided third part, (the whole in three equal parts to be divided,) of the said messuage and garden with the appurtenances, parcel, &c. in the said declaration mentioned to be situate in the parish of — aforesaid; and let the said *John Doe* be amerced, for his false claim against the said *E. F.* for the residue of the tenements in the said declaration mentioned, whereof the said *E. F.* is acquitted in form aforesaid, and the said *E. F.* go thereof without day, &c. And it is further considered by the said court here, that the said *John Doe* do recover against the said *C. D.* the sum of —l. and against the said *E. F.* the further sum of —l. for his the said *John Doe's* costs and charges aforesaid, by the court of our said lord the king now here respectively adjudged of increase to the said *John Doe*, and with his assent; which said several sums of —l. and —l. in the whole amount to the sum of —l.: and let the said *C. D.* and *E. F.* be taken, &c.; and let them be acquitted of the said damages, so remitted as aforesaid, &c.

Judgment
signed, &c.
(186.)

Capiatur.

(*Term and warrants of attorney, as before, p. 632.*)

—— (to wit.) *C. D.* puts in his place *E. F.* his attorney, at the suit of *John Doe*, on the demise of *A. B.* in a plea of trespass and ejectment of farm.

—— (to wit.) *C. D.* was attached to answer unto *John Doe*, &c. (to the end of the defendant's plea, and then as follows :)

And upon this the said *C. D.* prays that the said *John Doe* may reply to the aforesaid plea of him the said *C. D.* : and thereupon a day is given by the court here, to the said *John Doe*, before our lord the king, until —, wheresoever, &c. that is to say, for him the said *John Doe* to reply to the aforesaid plea of the said *C. D.* ; the same day is given to the said *C. D.* at the same place : At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid ; and the said *John Doe*, although at that day solemnly called, comes not, nor hath he replied to the aforesaid plea of the said *C. D.* nor doth he further prosecute his said writ : Therefore it is considered by the court here, that the said *John Doe* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. ; and that the said *C. D.* do go thereof without day, &c.

(§ 108.)
Judgment of
non pros, for the
defendant in
ejectment, for
not replying, in
K. B.

Prac. 1231.
1241.

Mercy.

*

—— on (or, next after) ——, &c. (175.)

Doe, on the demise of *A. B.* } Upon reading a rule made in this cause,
Roe } on ——, whereby *E. F.* made himself de-
fendant in the stead of the casual ejector, and another rule made on the
same day, and the *postea* in this cause being produced and read ; It is or-
dered, that the said *E. F.* upon notice of this rule, to be given to his at-
torney, shall upon, &c. (626.) shew cause, why the lessor of the plaintiff
should not be at liberty to sue out execution, upon the judgment signed
against the casual ejector, pursuant to the first-mentioned rule. Upon
the motion of Mr. *J. T. Pratt*.

By the Court.

Upon reading a rule made in this cause, on the —— day of ——, in
—— term last, whereby *E. F.* landlord of the premises then in question,
had leave to defend his title to the said premises, pursuant to the late act
of parliament, and the record of *nisi prius* between the plaintiff and the
said *E. F.* and the return made thereon, whereby it appears that a ver-
dict was found for the plaintiff, at the last assizes holden for the county
of —— ; It is ordered, that the plaintiff have leave to take out execution
on the judgment signed against the casual ejector.

By the Court.

• *George the Fourth*, &c. (352.) To the sheriff of ——, greeting :
Whereas *John Doe* lately in our court before us at *Westminster*, by our
writ, (or, if by bill, say “ by bill, without our writ,”) and by the judg-
ment of the same court, recovered against *C. D.** his term then and yet
to come of and in —— dwelling houses, &c. (as in the declaration in

(§ 109.)
Rule for exe-
cution against
the casual ejection,
where the
landlord had
been made de-
fendant, and
failed at the
trial, in K. B.
Prac. 1245.

(§ 110.)
The like, in
C. P.

Prac. 1245.

(§ 112.)
Habere facias
possessionem, in
K. B.
Prac. 1224.
1244, &c.

* If the judgment was by default, the execution is against “ *Richard Roe*,’ the casual ejector.

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ejectiont,) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which was not then nor is yet expired, and ejected the said *John Doe* from his said farm; whereof the said *C. D.* is convicted, as appears to us of record: Therefore we command you, that without delay you cause the said *John Doe* to have the possession of his said term, yet to come of and in the tenements aforesaid with the appurtenances: And in what manner you shall have executed this our writ, make appear to us, on —, wheresoever we shall then be in *England*, (or, *by bill*, “to us at *Westminster*, on — next after —,”) and have there (or, *by bill*, “have there then”) this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 113.)
The like, in
C. P.

Prac. 1224.
1244, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *John Doe* lately in our court before our justices at *Westminster*, by the consideration and judgment of the same court, recovered, &c. (*as in the last*;) whereof the said *C. D.* is convicted: Therefore we command you, that without delay you cause the said *John Doe* to have the possession, &c. (*as in the last*;) And in what manner you shall have executed this our writ, make appear to our justices at *Westminster*, on —; and have there this writ. Witness *Sir William Draper Best* knight, &c. (457.)

(§ 114.)
The like, in the
Exchequer.

Prac. 1224.
1244, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *John Doe* our debtor, in our court before the barons of our Exchequer at *Westminster*, in this present term, (or, “heretofore, that is to say, in the term of — last past, or, in the — year of our reign,”) by the consideration and judgment of our said court, recovered, &c. (*as in the last but one*;) whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: Therefore we command you, that without delay you cause the said *John Doe* to have the possession, &c. (*as in the last but one*;) And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster*, on — next coming; and have there this writ. Witness *Sir William Alexander* knight, &c. (353.)

(§ 115.)
The like, after
execution
awarded on a
scire facias.

Prac. 1224.
1244, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *John Doe* our debtor, in our court, &c. (*as in the last*, to “whereof the said *C. D.* is convicted,” and then *as follows*;) And whereupon it hath been considered in our said court, that the said *John Doe* should have

his execution of the said judgment, according to the force form and effect of the recovery aforesaid, by the default of the said *C. D.* as by inspecting the rolls of our said Exchequer, appears to us: Therefore we command you, &c. (*as in the last.*)

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George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *John Doe* lately in our court, &c. (651.) recovered against *C. D.* his term then and yet to come of and in — dwelling houses, &c. (*as in the declaration in ejectment,*) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; and also his term then and yet to come of and in — other dwelling houses, &c. (*as in the declaration,*) with the appurtenances, situate, (&c.) which *E. F.* on the — day of — in the — year aforesaid, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years, from thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said *John Doe* entered into the said several tenements with the appurtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said several tenements with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which were not then nor are yet expired, and ejected the said *John Doe* from his said several farms; whereof the said *C. D.* is convicted; (*adding in K. B.* “as appears to us of record;”) Therefore we command you, that without delay you cause the said *John Doe* to have the possession of his said several terms, yet to come of and in the said several tenements with the appurtenances: And in what manner you shall have executed this our writ, make appear, &c. (*as before, p. 652.*;) and have there, (*or, by bill,* “have there then”) this writ. Witness, &c. (582.)

(§ 116.)
The like, on a
double demise,
in *K. B.* or
C. P.
Prac. 1224.
1244, &c.

George the Fourth, &c. (352.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: Whereas, &c. (*as in the last writ, to the words* “whereof, &c.” and then as follows:) Therefore we command you, that by our writ, under the seal of our said county palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that without delay he cause the said *John Doe* to have the possession of his several terms aforesaid, yet to come of and in the several tenements aforesaid with the appurtenances: And in what manner the said sheriff shall execute our said writ, let him certify to you, so that you may make the same known to us, on, &c. (652.) and have there (*or, by bill,* “have there then”) this writ. Witness, &c. (582.)

(§ 117.)
The like, to a
county palatine.
Prac. 1224, &c.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the habere facias, pp. 561, 2. to the return day, and then*

(§ 118.)
The like, and
feri facias for

costs, by original, in K. B.
Prac. 1244.

as follows :) We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* which the said *John Doe* lately in our said court before us at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record: And have you the said monies before us, on the return day aforesaid, wheresoever, &c. (652.) to be rendered to the said *John Doe*, for his damages aforesaid; and have there this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 119.)
The like, in
C. P.
Prac. 1244.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the habere facias, ante, 651, 2. to the return day, and then as follows :*) We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* which the said *John Doe* lately in our said court before our justices at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid; whereof the said *C. D.* is also convicted: And have you the said monies before our said justices at *Westminster*, on the return day aforesaid, to be rendered to the said *John Doe*, for his damages aforesaid; and have there this writ. Witness *Sir William Draper Best* knight, &c. (457.)

(§ 120.)
The like, in the
Exchequer.
Prac. 1244.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the habere facias, ante, 651, 2. to the return day, and then as follows :*) We also command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which in our said court were adjudged to the said *John Doe*, for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid; whereof the said *C. D.* is also convicted, as by inspecting the rolls, &c. (*in the common form, ante, p. 353.*)

(§ 121.)
The like, and
capias ad satisfaciendum
for costs, by original, in K. B.
Prac. 1244.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the habere facias, ante, 651, 2. to the return day, and then as follows :*) We also command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on the return day aforesaid, wheresoever, &c. (652.) to satisfy the said *John Doe* — *l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *John Doe*, for his damages which he had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record; and have there this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 122.)
The like, and
also for the
costs in error,
on an affirmation
in the

(*As in the last precedent, to the word "record," in the last line but one, and then as follows :*) and also — *l.* which in our court of parliament were adjudged to the said *John Doe*, according to the form of the statute in such case made and provided, for his damages costs and charges

which he had sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretext of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *John Doe*, in the same court of parliament, the said judgment being there in all things affirmed; whereof the said *C. D.* is also convicted, as by the inspection of the record and proceedings thereof, remitted from our said court of parliament into our said court before us, likewise appears to us of record; and have there this writ. Witness, &c. (456.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas, &c. (*as in the habere facias, ante, 651, 2. to the return day, and then as follows:*) We also command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our said justices at *Westminster*, on the return day aforesaid, to satisfy the said *John Doe*, —*l.* which in our said court before our justices aforesaid, were adjudged to the said *John Doe*, for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid; whereof the said *C. D.* is also convicted; and have there this writ. Witness Sir *William Draper Best* knight, &c. (457.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas &c. (*as in the habere facias, ante, 651, 2. to the return day, and then as follows:*) We also command you, that you omit not, &c. (353.) but enter the same, and take the said *C. D.* wheresoever he shall be found in your bailiwick, and him safely keep, so that you may have his body before the barons of our Exchequer at *Westminster*, on — next coming, to satisfy the said *John Doe* of —*l.* which in our said court were adjudged to the said *John Doe*, for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid; whereof the said *C. D.* is also convicted, as by inspecting the rolls of our said Exchequer, also appears to us; and have there this writ. Witness Sir *William Alexander* knight, &c. (353.)

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *John Doe* our debtor, in our court, &c. (*as before, 651, 2. to "whereof the said C. D. is convicted," &c. and then as follows:*) And whereas we afterwards, to wit, in — term aforesaid, by our writ commanded you, that without delay you should cause the said *John Doe* to have the possession of his said term, then to come of and in the tenements aforesaid with the appurtenances; and that you should make known to the barons of our said Exchequer at *Westminster*, on a day now past, in what manner you should have executed that our writ: And because, since the issuing of our said writ, it hath appeared to the barons of our said Exchequer, that the said judgment, obtained by the said *John Doe* in manner aforesaid, was irregularly obtained, and that our said writ thereupon issued improvidently and unjustly; therefore we command you, that if possession of the tenements aforesaid with the appurtenances hath, by virtue of our said writ, been given or delivered to the said *John Doe*, then that without delay you cause restitution of the said tenements with the appurtenances, to be made to *G. H.* or his assigns, at whose instance the judg-

House of Lords.
Prac. 1244.

(§ 123.)
The like, in
C. P.
Prac. 1244.

(§ 124.)
The like, in the
Exchequer.
Prac. 1244.

(§ 125.)
Writ of restitu-
tion, in the
Exchequer.
Prac. 1033. (c.)
1186. (k.)

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ment aforesaid hath been set aside by our said court, he the said *G. H.* being landlord and owner of the tenements aforesaid with the appurtenances; and that whatever has been done by virtue of our said writ, you deem altogether void and of no effect, as you will answer the contrary at your peril: And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster* aforesaid, on — next coming; and have there this writ. Witness, &c. (353.)

By order of court, made this term.

Rose.

(§ 126.)

Affidavit of demand and refusal, &c. to found attachment for non-payment of costs.

Prac. 1242.

In the King's Bench, &c. (623.) *John Doe*, on the demise &c. (*id.*)

L. M. of — gentleman, maketh oath and saith, that he this deponent did, on — the — day of — instant, (*or*, last,) personally serve the above-named *A. B.* with the rule or order for the payment of costs, on account of his not having proceeded to trial pursuant to his notice, and the master's (*or*, in *C. P.* "the prothonotary's") *allocatur* thereon, and also with the consent rule, and writ of *capias ad satisfaciendum*, under the seal of this honourable court, hereunto annexed, by delivering unto him the said *A. B.* true copies thereof respectively; and at the same time, he this deponent shewed the said original rules, *allocatur*, and writ of *capias ad satisfaciendum*, to the said *A. B.* and demanded of him the payment of the sum of —*l.* taxed upon the said first-mentioned rule or order, and also of the further sum of —*l.* being the costs adjudged to him this deponent, on the final judgment obtained in the above action, as appears by the master's (*or*, in *C. P.* "by the prothonotary's") *allocatur* on the said first-mentioned rule or order, and by the said writ of *capias ad satisfaciendum*: but the said *A. B.* refused to pay the same, or any part thereof, and the same are still wholly due and unpaid.

Sworn, &c. (175.)

(§ 127.)

Subpoena for costs, for not proceeding to trial, or on nonsuit, in the Exchequer.

Prac. 991.

George the Fourth, &c. (352.) To *A. B.* our debtor, greeting: We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay or cause to be paid to *C. D.* or the bearer hereof, the sum of —*l.* of lawful money of *Great Britain*, allowed to the said *C. D.* by our court of Exchequer at *Westminster*, for that *A. B.* our debtor, to whom you the said *E. F.* have demised certain tenements with the appurtenances, in the county of —, hath not proceeded to trial at the last assizes for the said county of —, in a certain suit then depending in our said court, between the said *A. B.* and the said *C. D.* according to the tenor of a certain rule of our said court, in that behalf made; (*or*, if on *nonsuit*, "for that *A. B.* our debtor, to whom you the said *E. F.* demised certain tenements with the appurtenances, in the county of —, hath not prosecuted his bill, lately exhibited in our said court, against the said *C. D.* in a certain plea of trespass and ejectment of farm, for the said tenements; whereof the said *A. B.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us:") And this you are in no wise to omit, under the penalty of 100*l.* which we shall cause to be levied to our use, upon your goods and chattels, lands and tenements, if you neglect this our present command. Witness Sir *William Alexander* knight, &c. (353.)

Rose.

George the Fourth, &c. (352.) To C. D. greeting: We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay or cause to be paid to E. F. lessor of A. B. our debtor, or the bearer hereof, the sum of —*l.* of lawful money of Great Britain, allowed to the said A. B. by our court of Exchequer at Westminster, for his costs and charges, according to the tenor of a certain rule of our said court, in that behalf made: And this you are in no wise to omit, &c. (*as in the last.*)

(§ 128.)
The like, for
not confessing
lease entry and
ouster.

Prac. 991.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas John Doe lately in our court before us at Westminster, by our writ, and by the judgment of the same court, recovered against C. D. (*or, if against the casual ejector, "Richard Roe,"*) his term then and yet to come of and in one messuage &c. (*as in declaration,*) with the appurtenances, in the parish of — in your county, which A. B. on the — day of —, in the — year of our reign, had demised to the said John Doe; to have and to hold the same to the said John Doe and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise, the said John Doe entered into the tenements aforesaid with the appurtenances, and was thereof possessed, until the said C. D. (*or, "Richard Roe"*) afterwards, to wit, on the — day of —, in the — year aforesaid, with force and arms, &c. entered into the tenements aforesaid with the appurtenances, which the said A. B. had demised to the said John Doe, in manner and for the term aforesaid, which is not yet expired, and ejected the said John Doe from his said farm; and also —*l.* for the damages which the said John Doe had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said C. D. (*or "Richard Roe"*) is convicted, as appears to us of record: And now, on the behalf of the said John Doe, in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of that judgment still remains to be made to him; wherefore the said John Doe hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said C. D. (*or "Richard Roe,"*) that he be before us, on —, wheresoever, &c. (652.) to shew if he has or knows of any thing to say for himself, (*or, if against the casual ejector, the sheriff should be commanded to "make known to the said Richard Roe, and also to — and —, the tenants of the tenements aforesaid, that they be before us, on —, wheresoever, &c. (652.) to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself,"*) why the said John Doe ought not to have the possession of his said term yet to come of and in the tenements aforesaid, and also execution of the damages costs and charges aforesaid, according to the force form and effect of the said re-

(§ 129.)
Scire facias for
the plaintiff, by
original, in
K. B.

Prac. 1249.

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covery, if it shall seem expedient for him; and further to do and receive what our said court before us shall consider of him (*or*, "them") in this behalf: And have there the names of those by whom you shall so make known to him (*or*, "them") and this writ. Witness *Charles Lord Tenterden*, &c. (456.)

(§ 130.)
The like, in the
Exchequer.

Prac. 1249.

George the Fourth, &c. (352.) To the sheriff of —, greeting: Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, to wit, in — term last past, (*or*, "in the — year of our reign,") by the consideration and judgment of the same court, recovered, &c. (*as in the last*, to "whereof the said *C. D.* is convicted," and then *as follows* :) as by inspecting the rolls of our said Exchequer, appears to us: Yet execution of the said judgment still remains to be made; as by the information of the said *A. B.* in our said court, we have been given to understand: And we being willing that those things which in our said court are rightly done, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known, &c. (*as in the last*, to the words "expedient for him," making the writ returnable "before the barons of our said Exchequer at *Westminster*," on a general return day :) And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer at *Westminster*, at the day aforesaid; and have you there the names of those by whom you shall so make known to him, and this writ. Witness *Sir William Alexander* knight, &c. (353.)

In the Common Pleas.

— term, &c. (516.)

— (to wit.) It was commanded to the sheriff of —, that whereas *John Doe* heretofore, that is to say, in — term, in the — year of the reign of the lord the now king, before *Sir William Draper Best* knight and his companions, then his majesty's justices of the bench at *Westminster*, by the consideration of the same court, recovered against *C. D.* his term then unexpired, of and in — messuages with the appurtenances, situate, &c. (*as in declaration*;) whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in his said majesty's court, before his justices at *Westminster* aforesaid, manifestly appeared; yet execution of the said judgment remained to be made, as on the information of the said *John Doe* the said lord the king had been given to understand; and because, &c. therefore the said sheriff should, by good and lawful men of his bailiwick, make known to the said *C. D.* and also to the tenants of all and singular the said tenements with the appurtenances, that they should be before his majesty's justices at *Westminster*, in —, to shew if any thing they, or any or either of them, had or knew to say for themselves or himself, why the said *John Doe* ought not to have execution against them, for his said term then unexpired, of and in the said tenements with the appurtenances, according to the form and effect of the said recovery, if, &c. At which day, comes here the said *John Doe*, by *E. F.* his attorney, and offers himself, on the fourth day, against the said *C. D.* and the tenants of all and singular the said tenements with the

(§ 131.)
Declaration in
scire facias,
against tert-
nants, in C. P.
of a term sub-
sequent to the
return of the
writ; with a
suggestion of
the death of
the defendant,
*puis darrein con-
tinuance*.

Prac. 1121.
1127, 8.

appurtenances; and the sheriff, to wit, —, sheriff of — aforesaid, returns that by virtue of the said writ to him directed, he, by *I. K.* (&c.) good and lawful men of his bailiwick, hath given notice to the said *C. D.* and also to *L. M.* (&c.) tenants of the said tenements with the appurtenances, to be and appear at the time and place in the said writ contained, to shew in manner as therein is mentioned, and as the said sheriff is commanded: And the said *C. D. L. M.* (&c.) on the same day, being demanded, also come by *G. H.* their attorney; and hereupon a day is given to the parties aforesaid, and with their assent, here, until — in this same term, that is to say, for the said *John Doe* to declare upon the said writ of *scire facias*, &c.: At which last-mentioned day, comes here the said *John Doe*, by his attorney aforesaid, and offers himself, on the fourth day, against the said *C. D. L. M.* (&c.); and the said *L. M.* (&c.) at the same day, being demanded, also come by their attorney aforesaid; but the said *C. D.* although then demanded likewise, comes not: And hereupon the said *John Doe* gives the justices here to understand and be informed, that since the last continuance of the plea aforesaid, and before this day, to wit, on the — day of — in the year of our Lord 18—, the said *C. D.* died, to wit, at — in the said county of —; which the said *L. M.* (&c.) do not deny, but admit the same to be true; therefore let there be no further proceedings upon the said writ, against the said *C. D.*: And upon this the said *John Doe* prays that execution may be adjudged to him against the said *L. M.* (&c.) for his said term yet unexpired of and in the said tenements with the appurtenances, according to the form and effect of the said recovery, &c.

FINIS.

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 - in *assumpsit*: 64, 5.
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 - assignees of bankrupt. 65.
 - covenant. *ib.*
 - debt on bond, &c. *ib.*
 - recognizance. *ib.*
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 - and assault. *ib.*
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for freehold premises, bargained and sold. *ib.*copyhold premises, surrendered. *ib.*leasehold premises, assigned. *ib.*use and occupation of a house, &c. *ib.*rooms. *ib.*

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AFFIDAVITS,

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before declaration :

for plaintiff :

to hold to bail :

in *assumpsit* ;

respecting personal property :

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to hold to bail :

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on money bond. 82.

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by surviving partner. 85.

against surviving partner. *ib.*by *baron* and *feme*, for debt due to *feme* before marriage, for goods sold, &c. *ib.*against *baron* and *feme*, for debt due from *feme* before marriage. *ib.*by *assignees* of bankrupt, for goods sold, &c. when affidavit is made by one of them. *ib.*the like, when bankrupt joins in the affidavit. *ib.*the like, for part of money due on bond, assigned to bankrupt. *ib.*

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AFFIDAVITS,

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